



An  
Bord  
Pleanála

## Inspector's Report ABP-310411-21

<b>Development</b>	Construction of a single storey discount foodstore (to include off licence use) and a 2 storey café /restaurant with terrace fronting onto the Airport Road.
<b>Location</b>	Airport Road, Shannon, Co Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	20311
<b>Applicant(s)</b>	Aldi Stores (Ireland)
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Aldi Stores (Ireland)
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21 <sup>st</sup> of January 2022
<b>Inspector</b>	Adrian Ormsby

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located in Shannon town on the northern side of the Airport Road R-471 (Bothar Mór). The site is located c. 200m east of the Shannon Roundabout and the N19 which is a further 1- 1.5 km south west of the N18/M18 motorway.
- 1.2. The site has a stated site area of c. 1.05ha. The site is relatively flat lying and agricultural in nature. Its southern boundary benefits from significant mature tree growth and faces onto the Airport Road R-471. Other boundaries generally include hedgerow with a wooded area directly east. The site does not benefit from a formal vehicular or pedestrian entrance. Lands to north, east and west are similarly undeveloped.
- 1.3. The site is located directly north and opposite the Sky Court Shopping Centre in which a number of commercial developments are located including Lidl, Dunnes Stores and a cinema.

## **2.0 Proposed Development**

- 2.1. The application comprises-
  - a single storey discount food store (to include off licence use)
    - gross floor area 1,837 sq.m.
    - net retail area 1,336 sq.m
  - a 2 storey café /restaurant (c.350sq.m) with terrace
  - Signage-
    - 1 no. totem sign,
    - 5 no. gable signs to all elevations,
    - 1 no. entrance sign
    - 1 no. entrance glass sign.
  - 106 no. car parking spaces
    - 5 disabled spaces and
    - 2 electric spaces

- a new distributor and internal road layout with
  - a new entrance from the R471
  - pedestrian access
- a single storey ESB Substation,
- relocation of bus shelter

2.2. The Planning Authority sought the following Further Information (FI) on the 16/07/20-

- The Retail Impact Assessment to be revised to include for potential reconfiguration and/or extension of existing units within the existing town centre building.
- A number of vehicular and pedestrian connectivity matters including-
  - Letters of consent to do works from the council
  - Dual purpose pedestrian and cycling connectivity, pathway widths, pedestrian crossings
  - Bus layby and road marking and signage
  - Large vehicle turning manoeuvres
  - Entrance requirements including visibility
  - Lighting

2.3. A bolded note was attached to the FI request advising the applicants that an Economic and Spatial Strategy for Shannon Town Centre is being prepared and due for completion by the end of 2020. This plan will guide development within the town centre, and inform land uses within same.

2.4. On the 02/12/20 the applicants sought an extension of up to three months to deal with the FI response. This was agreed to be the Planning Authority on the 03/12/20.

2.5. The applicants responded to the FI request on the 13/04/21. The response was considered Significant Further Information (SFI) and was readvertised accordingly with revised public notices submitted on the 20/04/21.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to refuse permission on the 17/05/21 for three reasons as follows-

1. The subject site is located on lands zoned as 'Mixed Use' in the Shannon Town and Environs Local Area Plan and on lands identified to provide a future town centre area. It is considered that the proposed development, would not provide for an appropriate mix, range and type of uses consistent with the zoning objectives of the site. Furthermore, it is considered that the proposed development, by reason of its layout, setback of building and extent of ground floor single use car parking area, would prejudice the future development of the wider site, as set out in Section 5.4 of the Local Area Plan and would materially contravene Objective 5.7 of the Local Area Plan which seeks to provide a mix of uses within an expanded town centre. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development by reason of the lack of safe, convenient and attractive pedestrian linkages to the existing primary retail area in Shannon Town Centre, would materially contravene Objectives 5.3 and 5.8 of the Shannon Town and Environs Local Area Plan which seek to ensure that new development north of An Bothar Mór links to the existing town centre through strong pedestrian and road linkages, together with the development of the public realm along An Bothar Mór. The proposed development would therefore be contrary to the proper planning and sustainable development of the area
3. The subject site is located on lands zoned as Mixed Use. Notwithstanding this zoning, and having regard to the nature of the proposed development site, which is physically and functionally detached from the primary retail area of Shannon Town, the poor pedestrian connectivity between the site and the wider town centre and mixed use lands to the south, the existing vacancy

levels in the town centre, and the nature of the development which is primarily to serve car borne traffic, it is considered that the proposal would fail to satisfactorily relate to the existing town centre lands and uses, and would materially contravene objectives 5.8 and 5.11 of the Shannon Town and Environs Local Area Plan. Furthermore, it is considered that the proposed development would be premature pending the completion of the forthcoming Shannon Spatial & Economic Plan, which includes the subject site and wider town centre zoned lands. The proposed development would therefore not be in accordance with proper planning and sustainable development.

## **4.0 Planning Authority Reports**

### **4.1. Planning Reports**

4.1.1. The following is noted from the first planners report (dated 16/07/20)-

- The subject site is zoned mixed use under the Shannon Town and Environs Local Area Plan 2012-2018 as amended which remains unchanged from the previous application was determined (pl.17/ 500).
- The Board did not accept that a standalone development as proposed with no certainty with regard to the provision of other uses on the remaining lands encompassed within the mixed use zoning was acceptable and therefore the development did not comply with objective 5.7 of the Shannon Town and Environs LAP 2012-2018 as amended.
- It is considered that the masterplan (under preparation at time of report) would provide greater certainty regarding the provision of other uses on the remaining lands and the determination of this application without the benefit of an operational masterplan is not ideal.
- Given that there has been no material change in the zoning and objectives it is considered that the development does not comply with objective 5.7 of the amended LAP.
- The current layout and arrangement does not comply with objectives 5.3 and 5.8 which is to ensure that the new development north of Bothar Mór links the

existing town centre through strong pedestrian and road linkages, giving a unified and walkable core area, together with the development of the public realm along An Bothar Mór.

- The key to successfully integrating TC2 with the existing town centre is the treatment of Bothar Mór, over which the applicant has no control.
- The arrangement and interface of development along Bothar Mór at this location will require a detailed design brief before an unified and walkable core area can materialise
- Further information will be requested on retail impact assessment and the sequential test.
- The presence of underground utilities and wayleaves prevent the building being located to be closer to the public road and while the café offers some animation the main entrance to the store is at the rear of the building which reduces ease of connection with the existing town centre.
- Details submitted in respect of flood risk and surface water management are satisfactory.
- In terms of overall retail impact assessment the ABP Inspector's Report did not consider the provision of a convenience store in Shannon as something that would diminish the range of services in Shannon but would complement same thus increasing the overall attractiveness of Shannon. The Inspectors Report stated the site was a natural continuation of the town centre and is within walking distance of other services subject to the provision of additional pedestrian linkages.
- However it would be preferable if the sequential test was considered more fully in the context of a completed masterplan, in which case an alternative site or sites may arise for consideration. A third party identifies a location within the existing town centre building.
- The nature of the proposed development which consists of a convenience retail unit and café the site will have poor functional linkages to the primary retail area. There is no strong complementary attraction between the proposed use and existing retail uses in the primary retail area. The



pedestrian route between the two does not provide focus and interest which would draw shoppers along it. The pedestrian route is not attractive.

- The design response attempts to address the specific design challenges which are unique to the site and setting. The proposal will animate the frontage, however the site is not easily accessible by various modes of transport especially pedestrian.
- There is no objection in terms of quantitative need for additional convenience floor space.
- A short fall of 8 parking spaces is considered acceptable given the extent of parking available in the town centre though accessibility from the town is of concern. Car parking to the rear of the site was deemed acceptable by the ABP inspector in the previous application and this arrangement is to continue.
- As per the Inspectors Report in the previous application a pedestrian crossing is proposed on lands outside the applicants control A letter of consent from the council is required through Further Information.
- Bothar Mór in its current layout and design is a deterrent to potential shoppers. It is likely these arrangements will force shoppers to drive to the site from the existing town centre.
- The key to successful integration of this site to the town centre is safe, user friendly, physically attractive crossing facilities with short wait time on the lights.
- A footpath to be constructed along the northern side of Bothar Mór will be considered in the event of a grant.
- The previous application was refused by the council and the decision upheld by the Board and in particular the development was not of an exemplar design as envisaged under objective 5.9 of the LAP.
- It is considered the revised design addresses the refusal in terms of street frontage, height, presence, definition at this prominent location. However it is considered the outcome of the Masterplan would be beneficial for the future layout/development of the site.

- The submitted flood risk report concludes the development is acceptable in terms of flooding. The ABP inspectors report concluded the development would not increase flood risk or be at risk of flooding subject to conditions. Proposals for flooding risk mitigation and surface water drainage are unchanged. There are no objections.
- There is no real likelihood of significant effects on the environment. The need for EIA can be excluded at preliminary examination.
- There are no objections to the development on the grounds of significant effects on European sites.
- The applicants shall be informed that a Masterplan for the Town Centre is awaited at FI stage.

4.1.2. The second Planners Report (dated 17/05/21) reflects the decision of the Planning Authority. The following is noted from the report-

- The Planning Authority have prepared a Spatial Masterplan for the town centre lands, funded under URDF. The proposed development is inconsistent with the Spatial and Economic Masterplan for Shannon Town Centre.
- Whilst the subject site is zoned as mixed use, and noting that the current proposal now provides for a mix of a café use and a supermarket use, there is still a concern with regard to the principle of the proposed development which is detached from the established/developed town centre lands.
- The proposal, whilst facilitating vehicular access, is poorly connected in terms of pedestrian and cyclists provision to the remainder of the town centre and other commercial uses.
- The pedestrian crossing as outlined in the further information response, is noted however it is not considered that this addresses the fundamental issue of connectivity to the town centre, and the proposal would be isolated from same and would not provide appropriate synergy between both sites.
- It is considered that the amalgamation or alteration/extension of units on the site of the existing shopping centre to facilitate an Aldi store would be a

positive development, would increase footfall on this site and help to consolidate the town centre core.

- The design of the building as proposed is considered an improvement on that as applied for under 17/500.
- There remains a concern as to whether the Aldi store (and café) would be strong enough anchor to generate the volume of footfall required to create a synergy between the existing primary retail area and the future town centre area.
- A key principle of the LAP is to improve place making and way finding and to manage the northern extension of the town centre in such a way as to enhance the design, layout and feel of the public realm creating better linkages between existing and proposed new uses.
- The proposed development is physically detached from the existing town centre, absent of appropriate linkages, predominantly car based. It would detract from the vitality of the existing town centre and fails to relate satisfactorily to same.
- The key concept emerging from the Masterplan for Shannon is for consolidation and enhancement of the existing town centre site and the development of an Aldi store on that site would help to achieve it.

#### **4.2. Other Technical Reports**

- Environmental Awareness Officer-
  - 22/06/20- The findings and conclusions of the submitted screening for appropriate assessment that are agreed with. The proposed project will not lead to significant adverse effects on any European Site.
- Fire Authority-
  - 09/06/20- No objections
- Roads Design Office (Engineer)-
  - 22/06/20 A number of matters raised and Further Information recommended

#### **4.3. Prescribed Bodies**

- Health and Safety Authority (HSA)-
  - 29/05/20- The HAS do not advise against the grant of permission
- Transport Infrastructure Ireland (TII)-
  - 03/06/20- No observations
- Mid West National Roads Design Office-
  - 08/06/20- No observations
- Irish Aviation Authority (IAA)-
  - 08/06/20 Any crane operations during construction should not adversely impact the safety of operations.

#### **4.4. Third Party Observations**

- One third party submission was received from Brendan McGrath and Associates Planning Consultants on behalf of the Skycourt Management Company. The matters raised can be summarised as follows-
  - The Retail Impact Statement (RIS) is seriously deficient. A site within the Skycourt complex is not referred to.
  - Ambitious plans for a greatly expanded town centre have floundered because of stagnant urban growth.
  - An expansion of the town centre to the north of An Bothar Mór was premature.
  - The proposal would seriously injure the visual amenity of the town centre.
  - The proposal would be contrary to proper planning and sustainable development of Shannon Town.

### **5.0 Planning History**

This Site-

- PL03.249250, P17/500- Permission Refused for construction of foodstore to Aldi Stores (Ireland) Ltd. 20/07/2018.

The Board refused permission for two reasons-

1. *Having regard to the prominent location of the site in the centre of Shannon Town, the layout of the proposed development, the building setback from the street and roadside boundary, the location of surface car parking and in particular the single storey form, design and architectural treatment of the proposed retail building, it is considered that the proposed development fails to provide a satisfactory level of urban design and street frontage, height, presence and definition at this prominent urban street location in Shannon Town centre. The proposed development would, therefore, seriously injure the visual amenities of the area, would be contrary to the proper planning and sustainable development of the area and would not provide a quality urban design outcome consistent with the design principles, as set out in the "Retail Design Manual" issued by the Department of the Arts, Heritage and the Gaeltacht in April 2012 in relation to Design Quality, Public Realm and Built Form.*
2. *The subject site is located on lands zoned as 'Mixed Use' in the Shannon Town and Environs Local Area Plan and on lands identified to provide a future town centre area. It is considered that the proposed development, by reason of its sole retail use, would not provide for an appropriate mix range and type of uses consistent with the zoning objectives of the site. Furthermore, it is considered that the proposed development, by reason of its layout, setback of building and extent of ground floor single use car parking area, would prejudice the future development of the wider site, as set out in Section 5.4 of the Local Area Plan and would materially contravene Objective 5.7 of the Local Area Plan which seeks to provide a mix of uses within an expanded town centre. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

The Board's order also set out their reason for not accepting the Inspectors recommendation to grant permission-

- a. The Board did not accept *“a standalone development of the type concerned – a convenience retail store – with no certainty with regard to the provision of other uses on the remaining lands encompassed within the zoning, was acceptable”*. They considered this represented a material contravention of Objective 5.7 of the LAP.
- b. They were also not satisfied the proposed building *“was adequate in design terms to provide the necessary urban form for this pivotal site within Shannon, and was of the view that the site, and adjoining landholding, required buildings of multiple storeys and also considered that the proposed development was not of exemplar design, as envisaged under Objective 5.9 of the Local Area Plan”*.

## 6.0 Policy Context

### 6.1. National Planning Framework

- 6.1.1. The NPF details an ambition to create a single vision, a shared set of goals for every community across the country. These goals are expressed as National Strategic Outcomes Relevant outcomes include-

- *National Strategic Outcome 1 Compact Growth*
  - *Carefully managing the sustainable growth of compact cities, towns and villages will add value and create more attractive places in which people can live and work. All our urban settlements contain many potential development areas, centrally located and frequently publicly owned, that are suitable and capable of re-use to provide housing, jobs, amenities and services, but which need a streamlined and co-ordinated approach to their development, with investment in enabling infrastructure and supporting amenities, to realise their potential. Activating these strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority.*

- 6.1.2. Section 3.4 deals with the Southern Region. In relation to the Mid West it states-

- *A Metropolitan Area Strategic Plan (MASP) will be prepared for the Limerick Metropolitan area, incorporating Shannon, through the Regional Spatial and Economic Strategy process.....*

*Future growth will be based on leveraging national and international connectivity, higher education capacity and quality of life to secure strategic investment. This must be underpinned by sustainable employment and housing development, focused on the broader Limerick- Shannon Metropolitan area and a strengthening of the urban cores of the county towns and principal settlements, as well as in rural areas.*

6.1.3. Section 10.2 'The Planning System' discusses Regional Spatial and Economic Strategies. In relation to 'Metropolitan Area Strategic Planning' it states-

- *Accordingly, in tandem with and as part of the Regional Spatial and Economic Strategy process, arrangements will be put in place to enable the preparation of five coordinated metropolitan area strategic plans (MASPs) for the Dublin, Cork, Limerick, Galway and Waterford Metropolitan areas. In line with the Regional Spatial and Economic Strategies, the MASPs will be provided with statutory underpinning to act as 12-year strategic planning and investment frameworks for the city metropolitan areas, addressing high-level and longterm strategic development issues.*
- *In the Limerick area, a metropolitan area based on similar labour market catchment considerations to the areas already identified for Dublin and Cork, to be determined by the Regional Assembly, in consultation with the Department of Housing, Planning and Local Government and the relevant local authorities, that shall include Shannon Airport and Town*

## 6.2. Regional Spatial & Economic Strategy for the Southern Region

6.2.1. Limerick- Shannon Metropolitan Area Strategic Plan (MASP) See Map 3.4. The MASP area is almost evenly split, with 49% located in Co. Clare and 51% in the City and County of Limerick. Shannon is the largest metropolitan town with a population of 9,729. This MASP provides a focus on Limerick City and the Metropolitan settlement of Shannon. It sets out the framework for Limerick City and County

Council and Clare County Council and the various stakeholders to implement the NPF within the context of the RSES.

6.2.2. Section 2.2 deals with Shannon and identifies infrastructural requirements including-

- *Improvements and enhancement to Shannon Town Centre to create a sense of place, up-grade public realm and promote re-development. This will be a central component in attracting and retaining a skilled workforce.*

6.2.3. Section 4.0 deals with National Enablers and specifically identifies the following for the Limerick-Shannon MASP-

- *Creating a sustainable urban design town centre through the development of an Action Area Plan for Shannon Town Centre.*

6.2.4. Section 7.1 deals with Housing and Regeneration in the MASP. This section states-

- *The challenge for Shannon is to transform into a dynamic, vibrant place to live. Opportunities exist to create a new image that is fresh and welcoming, and capitalises on the existing strengths and assets of Shannon. This should be pursued through placemaking, including improving the quality and sense of place in the town centre. The development of an Action Area Plan for Shannon Town Centre to create a sustainable urban centre and a sense of focus would be a positive initiative.*

6.2.5. Limerick-Shannon MASP Policy Objective 10- Housing and Regeneration

*b. It is an objective to enhance Shannon Town as an attractive residential centre through regeneration, active land management initiatives and the redevelopment of Shannon Town Centre. An Action Area Plan for Shannon Town Centre and required environmental assessments including SEA and AA will be prepared within 3 years of the publication of this RSES and MASP.*

6.2.6. Section 8.7 deals with Retail and states –

- *Retail plays a central role in placemaking and creating attractive liveable environments, enabling strong mixed use urban cores and facilitating regeneration. Retail and the City Centre experience must be reshaped and adapted to this changed circumstance. This will require improvements to access, enhanced sustainable transport connectivity and a significantly*



*improved customer experience of visiting Limerick City Centre and Shannon Town Centre.....*

- ....*The need to regenerate Shannon Town Centre and improvements in the retail offer to create a sense of focus on arrival at the town centre is also a priority.*

6.2.7. Limerick-Shannon MASP Policy Objective 21 states-

- Public Realm and Placemaking

*It is an objective to deliver improvements in the public realm in the Limerick-Shannon Metropolitan Area to create more active and vibrant urban centres which are attractive as locations of choice to live, work and visit. Examples of projects which can strengthen placemaking and public realm in the Limerick-Shannon Metropolitan Area include but are not confined to:*

*.....*

- *Improvements and enhancement to Shannon Town Centre to create a sense of place, to upgrade public realm and promote redevelopment;*
- *The enhancement of Shannon the Living Town*

6.3. **Retail Strategy for the Mid West Region 2010-2016**

- Paragraph 6.41 states-

*“Shannon is a developing settlement and the proposals in the Masterplan to extend the town centre should be supported. The extension should focus on ‘walk to’ and ‘daily’ shopping, enhancing the range of convenience and comparison goods traders in the centre.”*

6.4. **Ministerial Guidance**

The following Section 28 Ministerial Guidelines are considered of relevance to the proposed development.

6.4.1. Retail Planning Guidelines for Planning Authorities April 2012 and the Retail Design Manual- A companion document to the Retail Planning Guidelines.

6.4.2. Development Management Guidelines 2007

- Section 6.3 Paragraph 11 states-

*Where the recommendation is to refuse because of a fundamental difficulty or difficulties, but where even if such difficulties did not exist, further information would have been required, an indication of the matters on which such information would have been required.*

- Footnote 19 referring to the above states-

*This is important: a frequent complaint by agents and others, is that when they submit a second application which addresses/overcomes all the expressed reasons for refusal of a first application, they find that contrary to their expectations it is not granted, but that new issues or problems are raised.*

## 6.5. Clare County Development Plan 2017-2023 (CDP)

### 6.5.1. Retail Objectives are set out in Chapter 7.

- Section 7.3.1 deals with the Retail Hierarchy for Clare and identifies Shannon as second on the tier and as a 'Linked Gateway'
- Section 7.4.2 refers specifically to Shannon and states-

*"The Council will encourage and facilitate the enhancement of both the town centre retail provision and the character of its environment in Shannon in order to improve the service to its local catchment. The town will be supported as a developing settlement and it is recognised that Shannon has very little representation of 'bulky comparison goods' outlets. The provision of a distinct shopping area linked to tourism is an opportunity which should be examined.*

*A masterplan was prepared for the redevelopment and expansion of Shannon Town Centre. The key elements of this masterplan have been incorporated into the adopted Shannon Town and Environs Local Area Plan 2012-2018."*

- Objective CDP 7.5- Shannon Town Centre states-

*It is an objective of the Development Plan:*

- To support the continuing development of retail facilities in Shannon Town Centre through the delivery of the adopted local area plan*

- b. *To encourage the growth of retail floorspace so that the town centre can improve its quality of service to its local catchment area;*
  - c. *To examine the possibility of creating a distinct shopping character for the town centre, reflecting its Linked Gateway status and increasing its attractiveness to tourists, particularly those using the airport.*
- Section 7.4.2 also states-  
  
*there is an identified requirement for additional convenience and comparison retail floorspace to serve Shannon town and the surrounding hinterland.*

## 6.6. The Shannon Town and Environs Local Area Plan (LAP) 2012-2018 (as extended)

- 6.6.1. The Local Area Plan came into effect on the 8<sup>th</sup> of October 2012. On the 12<sup>th</sup> of June 2017 the elected members of Clare County Council resolved to defer the making of a new Shannon Local Area Plan for a period not exceeding 5 years i.e. up to September 2022, pursuant to Section 19(1)(d) of the Planning & Development Act, 2000 (as amended).
- 6.6.2. Section 2.4.2 deals with the 'The Central Area'. This considers the requirements for development for the area north of the existing town centre and including the subject application site and the need for greater definition of built form and creation of a sense of place.
- 6.6.3. Figure 2.3 provides an "*Indicative Sketch only showing possible build out of extended town centre*". This includes the location of the subject application site which is annotated as number 4- "*smaller scale mixed use*".
- 6.6.4. Section 5.3 of the LAP details the 'Masterplan for the Special Development Area (Shannon Town North) 2009' has been reappraised as part of the LAP process. This section details that-

*the masterplan was prepared in different times and the fine grained, high density approach with 3-6 storey core retail area is not now considered achievable.....*

*However, its overriding principles remain valid and are reinforced in this Local Area Plan, namely the need for a strengthened viable and vibrant town centre*

*supporting a quality, varied retail offer with improved physical appearance, connectivity and the development of a 'streetscape'.....*

*This Local Area Plan has taken full account of the Masterplan for Shannon Town North in its preparation.*

- 6.6.5. Section 5.4 refers to the Future Town Centre Area – North of An Bothar Mór. It states-

*Clare County Council will consider comprehensive development proposals for this area which are consistent with the objectives of the Local Area Plan, taking account of the Shannon Placemaking Strategy as outlined in chapter 2.....*

*Chapter 2, Figure 2.3 illustrates a possible expanded town centre core retail area to the north of Bothar Mór with excellent pedestrian connectivity. The northern section of the town centre lands shows a major anchor facility / outlet centre or retail mall. It is considered that a building of large scale is required here in order to ensure visibility from the N19 and to provide an important landmark and reference point for the town centre. It is also envisaged that an appropriate tenant(s) for this large building would generate a significant volume of footfall to and from it and the existing town centre to the south of An Bothar Mór, thereby making the successful build out of the remainder of the town centre lands a more viable and realistic proposition.*

- 6.6.6. Relevant LAP objectives include-

- LAP 2.1: *To increase the appeal of the central areas, the town centre and the town park.*
- LAP 2.3: *To improve the sense of place and way-finding on key circulation nodes.*
- LAP 2.4: *To improve the sense of place and way finding on key circulation routes*
- LAP 5.1: *To consolidate the existing core retail area through the continuing improvement of the quality and range of retail offer, aesthetic improvements, the development of a streetscape onto Bothar Mor, improved access*

*arrangements and by facilitating a growth in retail floor space that enhances the quality of service for the surrounding areas.*

- LAP 5.3: *To support and facilitate the sustainable expansion of the town centre to the north of Bothar Mór, ensuring that strong pedestrian linkages are provided to this area.*
- LAP 5.4: *To develop a viable and vibrant town centre area with a distinctive and unique shopping character, achieved through a growth in retail floor space, evening uses, an improved consumer choice and range of services for the inhabitants of the Shannon Town and Environs Plan area, the local workforce and visitors to the region.*
- LAP 5.7: *To facilitate the development of an expanded town centre to provide inter alia, a new street plaza, high street retail uses, restaurant /café cluster, outlet centre(s), public open spaces, small office units, cinema / theatre, and a major anchor store facility / outlet or discount centre or retail mall in the northern section of the town centre lands.*
- LAP 5.8: *To ensure that new development north of An Bothar Mór links to the existing town centre through strong pedestrian and road linkages, giving a unified and walkable core area, together with the development of the public realm along An Bothar Mór and the new civic park.*
- LAP 5.9: *To enable the creation of a distinct character area, of exemplar design, with a strong relationship and linkages to its site context and to adjoining areas, including lands zoned at MU1, MU2 and the adjacent future civic park at OS1.*
- LAP 5.11: *To ensure that the development of the lands north of An Bothar Mór focuses on ‘walk to’ and ‘daily’ shopping, enhancing the range of convenience and comparison goods traders within Shannon.*
- LAP 5.14: *To promote and facilitate improved access, parking and circulation arrangements within Shannon town centre, taking account of both vehicular, cycling and pedestrian movements.*

6.6.7. Appendix 1 deals with Land Use Zonings. It provides the following definitions-

- *Town Centre / Mixed Use*

*The use of land as 'Town Centre / Mixed Use' shall include the use of land for a range of uses, making provision where appropriate, for primary and secondary uses e.g. commercial/retail development as the primary use with residential development as a secondary use. Secondary uses will be considered by the local authority, having considered the particular character of the given area.*

*A diverse range of both day and evening uses is encouraged and an over-concentration of any one use will not normally be permitted. These areas must be accessible to pedestrians, cyclist, persons with special mobility requirements and public transport (where feasible). The Council will continue to ensure that any proposed development is in the interest of the proper planning and sustainable development of the area, and serves to reinforce the vitality and viability of town centres whilst meeting the needs of its community and surrounding hinterland. Local Area Plans will also identify town centres that require the preparation of a town centre strategy, in order to encourage and facilitate the enhancement and improvement of the town centres.*

- 6.6.8. The settlement boundary for Shannon is identified on Land Use Zoning Map A of LAP. The site is **zoned** 'Town Centre' and includes lands both sides of Bothar Mor. Although Town Centre and Mixed uses zonings appear very similar in the mapping they are also distinct as identified by the border lines. The map clearly shows the site as part of the lands designated 'Town Centre'. This includes the north parts of the existing shopping centre lands on the south side of Bothar Mor. The 'Mixed Use' zoned lands are identified north of the 'Town Centre' zoning as MU1 and south of the Town Centre zoning as 'MU2'.

## **6.7. Shannon Town Centre Masterplan**

- 6.7.1. This Masterplan<sup>1</sup> was unanimously endorsed by the Elected Members of Shannon Municipal District at a meeting on Tuesday, 18th January 2022. The minutes of this meeting indicate that from a statutory point of view, the Masterplan will have to be

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<sup>1</sup> <https://www.clarecoco.ie/services/planning/news/draft-shannon-town-centre-masterplan-november-2021-44898.pdf>

incorporated into the current review of the County Development Plan<sup>2</sup>. On the 18<sup>th</sup> of September 2020, the council commenced the review of the existing Clare County Development Plan 2017-2023 and will prepare a new Clare County Development Plan 2023-2029<sup>3</sup>.

- 6.7.2. The Masterplan area aligns with the 'Central Area' outlined in blue in the Shannon Town and Environs LAP (2012-2018).

## 6.8. Natural Heritage Designations

The site is located-

- c. 1.3km north of the Lower River Shannon SAC (002165)
- c. 5km south of the Lough Gash Turlough SAC (000051)
- c. 1.3km north of the River Shannon and River Fergus Estuaries SPA (004077) and
- c. 1.3km north of the Fergus Estuary And Inner Shannon, North Shore pNHA (002048)

## 6.9. EIA Screening

- 6.9.1. An Environmental Impact Assessment Screening report has not been submitted with the application. The Planners Report considers the need for EIA can be excluded at preliminary examination stage and a screening determination is not required.
- 6.9.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area<sup>4</sup> and 20 ha

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<sup>2</sup> <https://www.clarecoco.ie/your-council/meetings/minutes/municipal-district-minutes-shannon/2022/municipal-district-of-shannon-january-2022-meeting-47462.pdf>

<sup>3</sup> <https://www.clarecoco.ie/services/planning/preparationofclarecdp22-2028/default.html>

<sup>4</sup> Built-up Area' means a city or town (where 'city' and 'town' have the meaning assigned to them by the Local Government Act 2001) or an adjoining developed area (defined in Article 3, Planning and Development Regulations 2001 as amended). An adjoining developed area can be taken to mean contiguous suburbs.

elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

- 6.9.3. The application proposes a mixed use development (Aldi and restaurant). The site has an area of c. 1.05ha. The development can be considered to fall under “business district” as Shannon is considered a ‘town’ under Section 10 (3) (b) and Schedule 6 Part 2 of the Local Government Act 2001. The site area is therefore well below the applicable threshold of 10 ha.
- 6.9.4. The introduction of a mixed use development as proposed will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage.
- 6.9.5. The development proposes connecting to the public water and drainage services of Irish Water and Clare County Council. In this context I am satisfied that the proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other developments in the general area. It would not give rise to a risk of major accidents or risks to human health.
- 6.9.6. The application site is not directly connected to a European Site. I note the proximity of the site to drainage ditches near its boundaries. This provides an indirect connection to European Sites. Surface water (allowing for attenuation and proposed SUDS providing on site infiltration) will discharge to the existing public storm sewer south east of the site on the R-471 with final discharge to the Shannon estuary. Wastewater will also discharge to the Shannon Estuary following treatment at the Shannon Wastewater Treatment Plant. Further consideration of significant effects, if any on European Sites are set out in Section 8.12 below. Impacts in terms of EIA are not significant.
- 6.9.7. I consider that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that upon ‘Preliminary Examination’, an ‘Environmental Impact Assessment Report’ for the proposed development was not necessary in this case



## 7.0 The Appeal

### 7.1. Grounds of Appeal

A first party appeal has been received. The grounds of appeal can be summarised as follows-

- The appeal provides an introduction, a description of the site location, a summary of the planning history and refusal by ABP under PL03.249250. It also sets out a response to the refusal reasons.
- The appeal provides a description of the proposed development and discusses Clare County Council's decision to refuse.
- Refusal reason 1-
  - In terms of the zoning the proposal includes an appropriate mix of uses on the site in the form of a two-storey café and discount food store. A shop is permitted in principle and a café/restaurant is open for consideration. The proposal will complement the entire lands zoned town centre allowing for a mix of uses.
  - The applicants have prepared their own Masterplan for the designated future town centre area which is included with the appeal. The proposal is envisaged as the first phase of development within their Masterplan area and will act as a catalyst for future development within these lands.
  - The proposal is designed as per their Masterplan with the access road along the western boundary provided as part of the application.
  - The proposal is the most appropriate for the site given that it is the most sequentially favourable site in the context of the existing Town Centre.
  - Section 5.4 of the LAP references matters that are not relevant to the application site. Notwithstanding this Aldi stores are effective in acting as strong retail anchor stores and attract a broad range of customers.
  - The layout of the proposal has been designed to integrated with the Masterplan. Design elements are detailed in a submitted design statement. Its siting to the south creates an active street frontage and is

closest to the existing town centre. The presence of a 10m way leave along the southern boundary prohibits development further south. An outdoor terrace activates the streetscape on this prominent corner. It is consistent with the design principles set out in the “Retail Design Manual”. The proposal including its car parking does not prejudice the future development of the wider site as set out in section 5.4 of the LAP.

- The proposed pedestrian link will allow for convenient and safe access between the proposed car park and existing town centre.
- The proposal accommodates a substantial level of landscaping to ensure the proposal reflects the environment it is set in including the relationship between the site and adjacent greenfield and woodland sites as well as the road and bus linkages.
- Refusal reason 2-
  - The planners report does not discuss the proposed pedestrian and cycle crossing which provides a direct link to the Skycourt Shopping Centre and accommodates passengers using the bus stop by providing a far safer solution to existing.
  - The implementation of this linkage will ensure the proposal complies with objective 5.3 and 5.8 of the LAP.
  - All the lands zoned to accommodate the expanded town centre are to the north of Bothar Mór. It is assumed by zoning these lands the council would have expected provision to be made for pedestrian crossings such as the one provided. It is unreasonable to suggest the site is detached from the town centre.
- Refusal reason 3-
  - The proposal provides a mix of uses and a dedicated pedestrian crossing.
  - In relation to vacancy levels the submitted Retail Impact Statement (RIS) is referred to. Another assessment of the Skycourt Shopping Centre has been undertaken prior to the submission of the appeal. There are considerable servicing constraints with accessing the shopping centre

which cannot be accommodated within the site boundaries. It therefore cannot accommodate the commercial Aldi.

- Truck access would be highly constrained and would require a significant extension to the buffer area adjacent to Airport Road. Provision of a loading bay would also be heavily constrained.
- The sequential test undertaken as part of the RIS identifies that there are no sites within the existing core retail area of Shannon which are suitable, viable and available to accommodate the proposal.
- The previous reasons for refusal as issued by ABP and Clare Co. Co. did not raise issue with the principle of development in retail planning terms.
- In terms of the Shannon Spatial & Economic Plan the applicants engaged with the council a number of times in an effort to discuss the Masterplan. It was due to be published in December 2020 and did not occur.
- The LAP has been in place for 9 years without the publishing of a Masterplan for the area. It is submitted that the proposal cannot possibly be premature of any Masterplan given the LAP has effectively been in place for over 9 years. In this context the LAP is ineffective.
- The application must be considered on its merits by An Bord Pleanála under the guidance of the current and extant LAP.
- The subject application has been the only significant retail application in the Town Centre since the previous application was lodged in 2018. This highlights the difficulties in securing meaningful retail investment in the area.
- The application will have the effect of drawing consumers to the town. It will serve to strengthen the town as a shopping destination and reduce leakages to Ennis and Limerick.
- Material Contravention
  - The Council considers the proposal materially contravenes Objectives 5.3, 5.7, 5.8 and 5.11 of the LAP.

- There is no material contravention cited in the decision of the County Development Plan and section 37 (2)(b) of the Act is not applicable.
- The appeal sets out a response to each objective in keeping with the previous responses and how the provisions of section 37 (2) (b) do not apply.
- The appeal includes a Design Statement and a Masterplan prepared by the applicants and a link to an online petition supporting the proposal

## 7.2. Planning Authority Response

The Planning Authority's response to the grounds of appeal received by email on the 05/07/21 and letter on the 06/07/21 can be summarised as follows-

- This is the second application for a supermarket on this site. The first was refused by ABP and the Planning Authority.
- A spatial Masterplan for the town centre lands funded under URDF has been prepared. This aims to provide for an examination of appropriate uses for various focus areas including the mixed-use zoned lands serving the subject development site and the mixed-use lands within the existing town centre, as well as the examination of appropriate linkages between both sites.
- The Spatial Masterplan provides for Enterprise related development on subject appeal site with new retail use to be concentrated on the existing town centre lands to the south of R471.
- This forms the context in which the subject application was assessed.
- In relation to the first refusal reason-
  - The subject site is zoned 'Mixed Use' and is located within the envelope of the town centre boundary as set out in the LAP zoning map 2012-2018, as amended.
  - This town centre and mixed-use zoning encompasses two blocks of land to the north and south of the R471. The southern block contains the main retail core of the town centre and the Skycourt shopping centre. The northern block is undeveloped to date and there is an opportunity to

provide for a comprehensive development of these lands. Both mixed use sites fall within the boundary of the Shannon Masterplan which identifies a strengthening of the existing retail core area and the identification of enterprise uses to the northern area.

- Notwithstanding the Masterplan, the Board are advised that the current LAP identifies Objectives 5.1 to 5.6 for the southern town centre and objectives 5.7 to 5.14 inclusive relate to the future town centre north of Bothar Mor.
- It is noted that the proposal now provides for both a supermarket and a cafe. It is not considered that the addition of a cafe is strong enough to provide for a sufficient draw or synergy between both areas of the town centre.
- In terms of the layout and setback of the building it is acknowledged that the wayleave to the front of the site restricts the development of a streetscape at this location, however given that this is a pivotal site within the town centre it is considered that a building of multiple storeys is required to provide for appropriate definition and form at this location.
- In relation to the second refusal reason-
  - Objectives 5.3 and 5.8 of the LAP seek to ensure that strong pedestrian linkages are provided to both mixed use zoned sites along the R471 (An Bothar Mor), and it was considered that the proposal would contravene these objectives.
  - The pedestrian crossing (Toucon) is proposed across the R471. This traverses the slip lane into the existing town centre and is located at a point where there is poor connectivity within the town centre site, and between it and the proposed crossing. On this basis the proposal does not provide for appropriate linkages between the two sites as required under Objectives 5.3 and 5.8.
  - The site is detached from the existing town centre area and the proposal would serve primarily car borne traffic. As the proposal is not functionally linked to the existing town centre, and noting the division of both sites by

the R471, it is not considered that safe and appropriate links between both sites is achieved.

- In terms of the proposed bus shelter, the Board will note the concerns of the Councils Roads Section with regard to the layout of same and compliance with the Traffic Management Guidelines.
- In relation to the third refusal reason-
  - This outlines concerns over the relationship of the proposal with the existing town centre site and compliance with the Shannon Masterplan.
  - There are concerns that the proposal is not adequately linked to the existing town centre site notwithstanding the pedestrian crossing as proposed, and noting also the car borne nature of the proposal.
  - The proposal would detract from the vitality of the existing town centre site and fail to relate satisfactorily to same, and would prejudice the comprehensive development of the lands within the town centre site itself and lands north of the R471.
  - A key concept of the Masterplan is for the consolidation and enhancement of the existing town centre site and it is considered that the development of an Aldi store on that site would help to achieve this aim.
- A separate submission is included in respect of the Masterplan.
  - The preparation of the Shannon Town Centre Masterplan is an objective of the Regional Spatial & Economic Strategy for the Southern region
  - The principle functions of the Masterplan are:
    - To establish the overall form of development for Shannon Town Centre, based on layout, uses, viability, density, heights of buildings and spaces and, in particular, the creation of streetscapes.
    - To create a town centre of distinction, drawing inspiration from the setting, history, location of Shannon and its assets
    - To maximise the opportunity for Shannon town centre to unlock its potential as a social, cultural, economic, retail and recreational destination of choice.

- To provide an evidence-based and feasible Masterplan to guide the viable economic development of the Town Centre.
- The Masterplan identified 3 core areas within the town centre
  - A residential component overlooking the existing and enhanced town park to the south.
  - A retail commercial core focus on the existing retail development in the town centre.
  - The area to the north of the R474 as an enterprise/employment zone and an Enterprise Campus of excellence and business park/employment area (within which the current application for Aldi is located)
- It is notable that whilst Shannon hosts c.10,000 employees, the majority of these employers are located away from the town centre in Shannon Free Zone West, Airport, and Westpark-at a remove from the town centre.
- The Masterplan proposal seeks to create an employment zone in the town centre to rebalance this and provide for opportunities for employees and workers to recreate and shop in the town centre.
- The concept of locating all retail within an existing brown field location is based on the requirement to protect the vitality and the viability of the existing town retail area.
- The Masterplan provides for the footprint of the proposed Aldi store located within the existing retail core to its north east providing for a high profile corner location with access & deliveries to the rear.
- There is a significant amount of underutilised retail space in the town centre. The outcome of this Masterplan seeks to ensure that retail footfall is retained within the retail area and not diluted by the location of retail units north of the R474 or beyond the existing town centre.
- In relation to lands to the north, albeit zoned mixed use, the Masterplan provides for a campus centre of excellence and enterprise, centred around a green and environmentally built environment.

- The proposed Aldi would be inconsistent in terms of its use and configuration on this site and the proper planning and sustainable development of this area.
- The Masterplan and its urban design principles provides for an enhanced and more pedestrian friendly high street, with increase building heights 3 – 4 storey and create a sense of enclosure and enhanced level of pedestrian connections north and south across the R474.
- The proposed site location and format for an Aldi, physically and functionally detached from the retail core of the town centre is inconsistent with the Masterplan would significantly impact on the ability of the Masterplan to achieve the critical mass urban design and vitality and viability of Shannon Town Centre. It would prejudice the future comprehensive development, not only of the town centre, but of the enterprise and employment and the campus centre of excellence to the north.

### **7.3. Observations**

- None received

## **8.0 Assessment**

### **8.1. Introduction**

- 8.1.1. I have examined the application details and all other documentation on file, including the submissions received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance.
- 8.1.2. Having reviewed and considered the planning history on the site including the fundamental issues identified in the Boards Order under reference number PL03.249250, I am satisfied the substantive issues arising from the grounds of this first party appeal relate to the following matters-
- Zoning and the Principle of the Development
  - Refusal Reason 1 and Material Contravention



- Refusal Reason 2 and Material Contravention
- Refusal Reason 3 and Material Contravention
- The Regional Spatial & Economic Strategy for the Southern Region (RSES) and the Limerick- Shannon Metropolitan Area Strategic Plan (MASP).
- An Bord Pleanála's Order for PL03.249250 /17/500- (20/07/2018)
- Appropriate Assessment

## 8.2. Zoning and the Principle of the Development

- 8.2.1. The settlement boundary for Shannon is identified on Land Use Zoning Map A of the LAP. The LAP identifies the importance of the site in the context of Shannon and its environs. In this regard, a blue line on both zoning maps (A and B) outlines lands that are designated as the 'Central Area' of Shannon. This blue line identifies a number of different zonings and includes the application site within it.
- 8.2.2. The site is zoned 'Town Centre' and this zoning includes lands both sides of Bothar Mor. Although 'Town Centre' and 'Mixed Use' zonings appear very similar in the mapping they are also distinct as identified by their border lines. The map clearly shows the application site as part of the lands designated 'Town Centre' and it is not 'Mixed Use'. The 'Town Centre' zoning includes the north parts of the existing shopping centre lands on the south side of Bothar Mor separated by a strip zoned 'Open Space'. The 'Mixed Use' zoned lands are identified north of the 'Town Centre' zoning and the application site as 'MU1' and south of the 'Town Centre' zoning and application site as 'MU2'.
- 8.2.3. Appendix 1 of the LAP provides land use zoning definitions. 'Town Centre' and 'Mixed Use' are defined as one and the following excerpts are considered relevant-

*"include the use of land for a range of uses, making provision where appropriate, for primary and secondary uses e.g. commercial/retail development as the primary use with residential development as a secondary use....."*

*These areas must be accessible to pedestrians, cyclist, persons with special mobility requirements and public transport (where feasible).*

*The Council will continue to ensure that any proposed development is in the interest of the proper planning and sustainable development of the area, and serves to reinforce the vitality and viability of town centres whilst meeting the needs of its community and surrounding hinterland.*

*Local Area Plans will also identify town centres that require the preparation of a town centre strategy, in order to encourage and facilitate the enhancement and improvement of the town centres.”*

- 8.2.4. The application proposes a single storey discount food store including an off licence use with a gross floor area of 1,837 sq.m. and a two storey café /restaurant of c.350sq.m with terrace area. Appendix 2 of the Lap sets out the land use zoning matrix. Shop is a Permitted in Principle Use on “Mixed Use/Town Centre” lands and Restaurant/Café uses are ‘Open for Consideration’.
- 8.2.5. In principle the development proposes a mix of uses and therefore complies with the zoning objective of the site. Furthermore the nature of both uses are also consistent with the zoning matrix and therefore are considered acceptable in principle.

### **8.3. Refusal Reason 1 and Material Contravention**

- 8.3.1. The Planning Authority’s first refusal reason considers the proposed development would not provide for an appropriate mix, range and type of uses consistent with the zoning objectives of the site. They consider the layout, setback of the building and extent of ground floor single use car parking area, would prejudice the future development of the wider site as required in Section 5.4 of the LAP. They also contend the proposal would materially contravene Objective 5.7 of the LAP which seeks to provide a mix of uses within an expanded town centre. They further consider the proposal would seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.
- 8.3.2. In their appeal the Applicants contend the proposal includes an appropriate mix of uses on the site i.e. a discount food store and a café. These uses respectively are ‘permitted in principle’ and ‘open for consideration’ within the zoning objective.
- 8.3.3. The applicants have prepared and submitted their own Masterplan with their appeal. This proposal is envisaged as the first phase of development and will act as a catalyst for future development of the Masterplan lands. They argue the proposal is

appropriate for the application site given that it is the most sequentially favourable site within their Masterplan lands in the context of the existing Town Centre.

- 8.3.4. They highlight the layout of the proposal has been designed to integrate with their Masterplan and a Design Statement has been submitted. Its siting to the south of the overall lands creates an active street frontage and is closest to the existing town centre. The presence of a 10m way leave along the southern boundary prohibits development further south. An outdoor terrace activates the streetscape on this prominent corner. They argue the proposal is consistent with the design principles set out in the “Retail Design Manual” and that the proposal with car parking does not prejudice the future development of the wider site as set out in section 5.4 of the LAP.
- 8.3.5. Having considered all of the above and in particular the ‘Town Centre’ zoning of the site, I am satisfied that the proposed development would provide a mix, range and type of uses that would be consistent with the zoning objective of the site.
- 8.3.6. I have considered section 5.4 of the LAP. I note it refers to Figure 2.3 of the LAP an *“Indicative Sketch only showing possible build out of extended town centre”* The site is located around the area identified as number ‘4’ on figure 2.3 which is described as a ‘smaller scale mix use’.
- 8.3.7. Having considered the ‘wider site’ in the context of the lands zoned ‘Town Centre’, ‘Mixed Use’, within the blue outlined ‘Central Area’ on the zoning map, Figure 2.3 of the LAP as well as the Masterplan put forward by the Applicants in their appeal, I do not see how the layout, set back of the building and the extent of ground floor single use car parking area would prejudice the future development of the ‘wider area’. In saying this I acknowledge that the Masterplan submitted by the applicants has not been agreed with the Council.
- 8.3.8. I note Objective 5.4 of the LAP seeks to “develop a viable and vibrant town centre area”. It does not specifically distinguish between the established town centre area and all lands zoned ‘Town Centre’. I note the Planning Authority have advised in their response to the appeal that objectives 5.1 – 5.6 relate to the southern lands and objectives 5.7 - 5.14 relate to the northern section. The layout of chapter of the LAP does support this, however, section 2.4.2 of the LAP (Page 29) states-

*“Consideration of the town centre as a place needs to incorporate the present developed area south of Bothar Mór and the future town centre area to the north of Bothar Mór. These both fall into the area defined as the core retail area (see Chapter 5) and have to be considered spatially as one entity.”*

In this context and noting the fact that the lands are zoned for development and are within the ‘Central Area’, Objective 5.4 is reasonably considered to apply to all ‘Town Centre’ zoned lands. The proposal would deliver a growth in retail floor space, evening uses, an improved consumer choice and range of services and as such would be in accordance with Objective 5.4.

8.3.9. I have considered objective 5.7 of the LAP which the Planning Authority considers the proposal materially contravenes. I accept the proposed development would not facilitate the development of the existing ‘established’ Town Centre. However objective 5.7 the LAP does not specifically seek this. It refers to an ‘expanded town centre’ which as per section 2.4.2 of the LAP include for all lands zoned ‘Town Centre’. Accordingly the proposed development would not materially contravene objective 5.7 of the LAP.

8.3.10. The proposed development would clearly facilitate the development of an expanded town centre by virtue of being one of the closest sites to the existing established town centre and is zoned ‘Town Centre’. On its own, the proposed development would provide a restaurant /café and a ‘discount centre or retail food store in the northern section of the town centre zoned lands. Furthermore the provision of the access road to the site would open up further lands zoned ‘Town Centre’ for development.

8.3.11. Having considered all of the above I do not consider the Planning Authority’s first refusal reason to be warranted.

#### **8.4. Refusal Reason 2 and Material Contravention**

8.4.1. The Planning Authority’s second refusal reason considers the proposed development lacks safe, convenient and attractive pedestrian linkages to the existing primary retail area in Shannon Town Centre and as a result would materially contravene Objectives 5.3 and 5.8 of the LAP.

- 8.4.2. These objectives seek to ensure that new development north of An Bothar Mór links to the existing town centre through strong pedestrian and road linkages, together with the development of the public realm along An Bothar Mór.
- 8.4.3. The Applicants argue that proposed development includes for pedestrian and cycle crossing which will provides a direct link to the Skycourt Shopping Centre. They also contend the proposal will provide for a new bus stop on Bothar Mór which greatly improves on the existing situation and these linkages ensure the proposal does comply with objective 5.3 and 5.8 of the LAP.
- 8.4.4. The Applicants highlight that all the lands zoned to accommodate the expanded town centre are to the north of Bothar Mór. They indicate that by zoning these lands the council would have expected provision to be made for pedestrian crossings such as the one provided.
- 8.4.5. In the Planning Authority initial assessment of the application they identified works were shown on the drawings to include a 'proposed pedestrian crossing to be constructed by the Council'. These works appear to be to the public road and are outside the control of the applicants.
- 8.4.6. At Further Information stage a letter of consent from the Council's Corporate/Property Section was sought for legal consent purposes. A letter of consent was received in the response to the FI which agreed to the inclusion of said lands for the purpose of the application.
- 8.4.7. The original Site Layout Plan drawing and the Site Layout Plan submitted at FI stage shows the provision of a pedestrian and cyclist toucan crossing, footpaths and a relocated bus shelter with set down area as part of the proposed development. This clearly provides pedestrian linkage to the existing primary retail area.
- 8.4.8. The site is located within the urban area of Shannon. The speed limit along Bothar Mór to the front of the site is 50kph and would appear to be considered safe in its current context. Notwithstanding this, the site is located on 'Town Centre' zoned lands and as such its development is appropriate. The responsibility for setting even lower speed limits if deemed necessary to improve the safety of Bothar Mór and to facilitate safer pedestrian linkages lies with the Local Authority.

- 8.4.9. The application proposes a footpath to the proposed pedestrian crossing which is to be located c.10 metres west of the proposed access road to the site. The pedestrian crossing will connect to the exiting footpath on the southern side of Bothar Mór and c.25 east of the existing route road to the established town centre. The application does proposes a safe and convenient pedestrian linkage to the existing primary retail area in this existing urban environment. I do not consider the pedestrian crossing to be unattractive nor would this be a sufficient reason to refuse the proposal.
- 8.4.10. Objective 5.3 seeks to ensure that strong pedestrian linkages are provided to the north of Bothar Mór. In my opinion, it would not be reasonable to expect the applicants to provide through this application an unspecified number of pedestrian linkages north of Bothar Mór as envisaged in the LAP and to publicly owned lands. However, this proposal should ensure that the provision of further pedestrian linkages are not prejudiced against by the proposal. In this context I am satisfied the proposed pedestrian and cycling linkage do not materially contravene objective 5.3.
- 8.4.11. Similarly, objective 5.8 seeks to ensure development north of An Bothar Mór links to the existing town centre through strong pedestrian and road linkages and the development of the public realm along An Bothar Mór. The proposed development does provide a strong pedestrian linkage in the context of the development site which is not all the lands fronting the north of Bothar Mor. I note the refusal reason raises no concerns in relation to the proposed road access to the site and is an appropriate location which can provide access for the overall zoned lands.
- 8.4.12. The planning application boundary does not include all lands to the front of the site along Bothar Mór. Parts of these lands are not within the landowners control based on the mapping submitted. The Site Layout Plan drawing also identifies an existing 10m wide wayleave for Irish Water that runs between Bothar Mór and the proposed building. The development proposes a vehicular entrance, new path and set down bus stop area all of which will adjoin the public realm.
- 8.4.13. The Landscape Master plan drawing no 17384-2-101 identifies tress to be retained along Bothar Mór outside of the site, proposed specimen trees and a landscaped area including that of the 10 metre wayleave for Irish Water. Given the red line boundary of the site this is considered reasonable.

- 8.4.14. Having considered the contents of the LAP, and the 'Town Centre' zoning for lands north of Bothar Mór and the established town centre lands south of Bothar Mór, it is appropriate that pedestrian and cycling connectivity is provided between the site and the south of Bothar Mór as proposed in the application.
- 8.4.15. However, the Board is advised that the drawings submitted with the application clearly state the proposed crossing is to be constructed by the Council. The planning application Cover Letter dated 18/05/20 states it will be constructed at the cost of the applicant. However it is possible a scenario could develop whereby the Aldi store and the café/restaurant are constructed and operational without the pedestrian connectivity being provided and could result in enforcement difficulties. Should the Board decide to grant permission it is recommended they attach a condition requiring the provision of the pedestrian crossing, footpaths with the bus shelter and set down area to the satisfaction of the Planning Authority prior to commencement of works or operation of the retail store and café/restaurant.
- 8.4.16. Having considered all of the above, I am satisfied the proposed development would provide safe and convenient pedestrian linkage to the existing primary retail area and would not materially contravene objective 5.3 and 5.8 of the LAP. Therefore, I do not consider the second refusal reason to be warranted in this instance.

## **8.5. Refusal Reason 3 and Material Contravention**

- 8.5.1. The Planning Authority's third refusal reason refers to the sites zoning as 'Mixed Use', the sites detachment from and poor pedestrian connectivity to the primary retail area of Shannon and other mixed use zoned lands to the south, existing vacancy levels, the nature of the proposal and its car dependency. They consider that the proposal fails to satisfactorily relate to the existing town centre lands and uses, and would materially contravene objectives 5.8 and 5.11 of the LAP. Finally, they consider that the proposal is premature pending the completion of the Shannon Spatial & Economic Plan and therefore would not be in accordance with proper planning and sustainable development.
- 8.5.2. The Applicant argues the proposal provides a mix of uses and a dedicated pedestrian crossing. In terms of existing vacancy levels they highlight there are considerable servicing constraints such as truck access within the Skycourt

Shopping Centre and as such it cannot accommodate an Aldi. They refer to the sequential test undertaken as part of the RIS in which no sites were identified within the existing core retail area of Shannon to be suitable or viable. They also highlight ABP's and Clare County Council's previous reasons for refusal did not raise issue with the principle of retail development at the site. The Applicant argues the existing LAP has been in place since 2012 without the publication of a Masterplan, as such the proposal cannot be premature and instead the LAP is ineffective. The Shannon Spatial & Economic Plan was due to be published in December 2020 and did not occur. The application must be considered under the guidance of the current and extant LAP.

8.5.3. The application site is zoned 'Town Centre' as identified by the border of the grey shading on the zoning maps which distinguishes it from 'Mixed Use'. However, Appendix 1 of the LAP assigns both zonings to the one definition.

8.5.4. Section 2.4.2 on page 29 of the LAP 29 states-

*"Consideration of the town centre as a place needs to incorporate the present developed area south of Bothar Mór and the future town centre area to the north of Bothar Mór. These both fall into the area defined as the core retail area (see Chapter 5) and have to be considered spatially as one entity."*

8.5.5. I accept the sites current condition is physically and functionally detached from the primary retail area. However it is clear from the LAP paragraph quoted above that both the developed and undeveloped area are identified as the 'core retail area' and are to be considered as one spatial entity. In this context the site is not detached from the primary retail area i.e. it is instead part of the 'core retail area'.

8.5.6. Furthermore, as detailed in section 8.4 above, I am satisfied the development as proposed will provide pedestrian connectivity between the site and the wider town centre lands to the south. The application site is only part of the lands that border Bothar Mór to its north and it would not be reasonable to require the proposed development to achieve all linkages between the north and south of Bothar Mór outside of the application site. The development as proposed could be the catalyst for further development of the 'Town Centre' lands and further linkages to the southern Town Centre lands i.e. the delivery of the access road will open up further lands for development.



- 8.5.7. The Planning Authority highlighted the option of reconfiguration and/or extension of existing shop units within the existing town centre have not been included in the submitted sequential test of the submitted Retail Impact Assessment. They sought Further Information to address this concern. Their refusal reason then refers to existing vacancy levels in the town centre and the nature of the development primarily being served by car borne traffic.
- 8.5.8. The applicants response to the FI request details two engagements with the owners of the existing centre prior to lodgement of the application. They contend that sufficient space was not available to accommodate a store with a retail area of 1,315 sq.m, warehouse and office area. A significant extension to the building in the area of existing car parking would have been required resulting in a loss of parking that would impact effective operations for both Aldi and the existing use. Analysis also demonstrated that truck access would have been impossible due to constraints in the car park. They argue that Aldi have been seeking a site for a number of years and the subject site is the only suitable one available in Shannon.
- 8.5.9. The Planning Authority's assessment of the FI refers to objective 5.1 of the LAP which seeks to consolidate the existing retail core through the continuing improvement of the quality and range of retail offer, aesthetic improvements, the development of a streetscape onto Bothar Mór. It then details the amalgamation or alteration/extension of units on the site of the existing centre to facilitate Aldi would be a positive development, would increase footfall on this site and help to consolidate the town centre core.
- 8.5.10. In terms of Retail Impact and vacancy levels, it is considered appropriate to consider the Planning Inspectors report and the Board's decision for application PL03.249250. Section 7.5.3 of the Inspectors Report states-

*“National and local retail planning policy, as set out in the retail planning guidelines and the retail strategy in the CDP, seeks to protect and enhance the vitality and viability of the town centres within the established retail hierarchy. The site is zoned town centre/mixed use and therefore is an appropriate location for the proposal, in the line with the hierarchy. My observations on site, and of surrounding areas, were that the appeal site is a natural continuation of the town centre and is within walking distance of other*

*services in the town, subject to the provision of additional pedestrian linkages.”*

Section 7.5.19. concludes-

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

- 8.5.11. The Boards Direction and Order did not accept the Inspector’s recommendation but the matter of Retail Impact and/or vacancy levels was not raised as a fundamental issue by the Inspector or the Board i.e. to be addressed by the applicant in future applications. I refer to section 6.3 paragraph 11 and footnote 19 of the Development Management Guidelines 2007 (see section 6.4 above). In this instance, where there is no significant change to the retail element of the proposal or the overall planning or statutory context, the Applicants argument that the Board and Planning Authority did not raise any issue with the principle of retail development at the site under the previous application is considered reasonable.
- 8.5.12. I share the Planning Authority’s view that the amalgamation or alteration/extension of units on the site of the existing centre to facilitate Aldi would be a positive development, would increase footfall on this site and would help to consolidate the town centre core. However, the application site is zoned ‘Town Centre’ and the proposed uses are permitted in principle and open for consideration as per the Zoning Matrix in Appendix 2 of the LAP. Section 2.4.2 of the LAP considers the site within the ‘core retail area’. In the context of ‘Retail Impact’ and vacancy levels I tend to agree with the opinion formed by the Planning Inspector under PL03.249250 / P17/500 and the subsequent determination of the Board.
- 8.5.13. The third refusal reason also considers the application materially contravenes Objective 5.8 and 5.11 of the LAP. As set out in section 8.4 of this report, I am satisfied the proposed development would not materially contravene objective 5.8 of the LAP.
- 8.5.14. Objective 5.11 seeks to ensure that the development of the lands north of An Bothar Mór focuses on ‘walk to’ and ‘daily’ shopping, enhancing the range of convenience and comparison goods traders within Shannon.

8.5.15. While noting section 2.4.2 of the LAP describes the site as within the 'core retail area', I understand the concept of 'walk to' and 'daily' shopping in objective 5.11 derives from the 2010-2016 Retail Strategy for the Mid West Region which would have informed the 2012 LAP. Paragraph 6.41 states-

*"Shannon is a developing settlement and the proposals in the Masterplan to extend the town centre should be supported. The extension should focus on 'walk to' and 'daily' shopping, enhancing the range of convenience and comparison goods traders in the centre."*

8.5.16. As discussed in section 8.4 above I am satisfied that the proposed development will provide pedestrian linkages that cater for 'walk to' the existing town centre. I also note the recent grant of planning permission under ABP-311994-21 for 48 houses c.400m east of the site. This development is envisaged as the first phase of a Masterplan with potential delivery of c.158 residential units and these units will all be within a reasonable walking distance to the proposed development and thereby can contribute to 'walk to' and 'daily' shopping.

8.5.17. The proposed development can reasonably be considered the first phase to extend the Town Centre' as per the zoning of the LAP and is within the 'core retail area'. The proposed Aldi will provide for walk to and daily shopping that enhances convenience and comparison goods traders in the overall town centre and core retail area.

8.5.18. The third refusal reason concludes by describing the proposal as premature pending the completion of the Shannon Spatial & Economic Plan. The Applicant argues the existing LAP has been in place since 2012 without the publication of a Masterplan and as such the application must be considered under the guidance of the LAP.

8.5.19. The Planning Authority's response to the first party appeal details a Spatial Masterplan for the town centre lands funded under URDF has been prepared. This provides for 'Enterprise' related development on the appeal site and for new retail use to be centred on the existing town centre lands to the south of Bothar Mór to protect the vitality and the viability of the existing town retail area. They detail the preparation of the Shannon Town Centre Masterplan is an objective of the RSES.

8.5.20. The Planning Authority have submitted a copy of the 'Emerging Masterplan' dated June 1<sup>st</sup> 2021 and their response details it provides for the footprint of the proposed

Aldi store located within the existing retail core to its north east and provides for an enhanced and more pedestrian friendly high street, with increase building heights 3 – 4 storey and create a sense of enclosure and enhanced level of pedestrian connections north and south across Bothar Mór.

8.5.21. They argue the proposed development is inconsistent with this Masterplan, would significantly impact on the ability of the Masterplan to achieve the critical mass urban design, the vitality and viability of the existing Town Centre and would prejudice the future comprehensive development of the town centre and the enterprise and employment campus centre of excellence to the north.

8.5.22. Section 7.4.2 of the County Development Plan 2017-23 deals with Shannon and states-

*“A masterplan was prepared for the redevelopment and expansion of Shannon Town Centre. The key elements of this masterplan have been incorporated into the adopted Shannon Town and Environs Local Area Plan 2012-2018.”*

8.5.23. Objective CDP7.5 of the CDP seeks to support the continuing development of retail facilities in Shannon Town Centre through the delivery of the adopted local area plan and to encourage the growth of retail floorspace so that the town centre can improve its quality of service.

8.5.24. At the local level the development of Shannon is guided under the provisions of the statutory Shannon Town and Environs Local Area Plan (LAP) 2012-2018 (as extended). Section 5.3 of the LAP details-

*“The masterplan for the Special Development Area (SDA) – Shannon Town North, which was prepared as part of the South Clare Local Area Plan 2009-2015, has been reappraised as part of this Local Area Plan process.”*

It goes on to detail the masterplan was prepared in different times and the fine grained, high density approach with 3-6 storey core retail area is not now considered achievable. It details the importance of one consolidated plan to drive the future development of Shannon and the masterplan for Shannon Town North cannot remain a standalone document. It emphasises the need for a strengthened viable

and vibrant town centre supporting a quality, varied retail offer with improved physical appearance, connectivity and the development of a 'streetscape'.

8.5.25. It is clear the LAP has taken full account of the Masterplan for Shannon Town North in its preparation. However it is also very clear that the planning hierarchy from CDP to LAP does not make any further provision for a new Masterplan to be developed during the lifetime of these plans. In this context, I would tend to agree with the Applicants and the application should be assessed under the guidance of the current and extant LAP including the sites zoning as 'Town Centre'.

8.5.26. Having considered all of the above, the proposed development is located within the 'core retail area' as described in section 2.4.2 of the LAP and is zoned 'Town Centre' as per the LAP where such lands have to be considered "*spatially as one entity*". Accordingly the proposal would not be physically and functionally detached from the wider retail area and would provide pedestrian connectivity between the site and the wider area including the existing town centre south of Bothar Mór. The proposal would not materially contravene objective 5.8 and 5.11 of the LAP. Therefore, I do not consider the third refusal reason is warranted in this instance.

#### **8.6. An Bord Pleanála's Order for PL03.249250 (17/500)**

8.6.1. On the 20/07/18 ABP decided to refuse permission for the construction of a single storey Aldi discount food store. The Board's Order included two refusal reasons and also sets out their reason for not accepting the Planning Inspector's recommendation to grant.

8.6.2. The first refusal reason details the proposed development fails to provide a satisfactory level of urban design and street frontage, height, presence and definition at this prominent urban street location in Shannon Town centre. It would not provide a quality urban design outcome consistent with the design principles, as set out in the "Retail Design Manual" issued by the Department of the Arts, Heritage and the Gaeltacht in April 2012 in relation to Design Quality, Public Realm and Built Form.

8.6.3. In their reason for not accepting the Inspectors recommendation they detail they were not satisfied the proposed building, including amendments at appeal stage was adequate in design terms to provide the necessary urban form for this pivotal site within Shannon, and was of the view that the site, and adjoining landholding,

required buildings of multiple storeys and also considered that the proposed development was not of exemplar design, as envisaged under Objective 5.9 of the LAP.

- 8.6.4. In making the application the Applicant's submitted cover letter of the 18/05/20 details the proposed development has been redesigned from a single storey building to a part 1 no. part 2 no storey building (maximum height 9.96m) including a café/restaurant as 'a direct response' to the reasons for refusal under PL03.249250.
- 8.6.5. The application includes a 'Retail Design Statement' (RDS) which it states has been prepared having regard to the 10 Design Principles set out in the 'Retail Design Manual' (RDM) which accompanies the Retail Planning Guidelines of 2012. The RDS discusses the intent underpinning Aldi food stores and includes the differences from conventional food stores. They highlight that Aldi stores are generally single storey. The proposed design has been revised to suit the site constraints and aspect of Bothar Mór. The main revisions to this proposal is the provision of a two storey café and outdoor terrace facing Bothar Mór. They detail that the architects want to set the tone of form, height and materials as the first development of these Town Centre lands. The building is brought forward as much as possible considering the required Irish Water way leave, to create a new building line and streetscape. They argue the design and material finishes gives a strong presence to the building and outside to the public realm. The RDS then specifically addresses the 10 Design Principles from the 'Retail Design Manual' (RDM).
- 8.6.6. The Applicants highlight in section 1.3 of their appeal that the reasons for refusal given by An Bord Pleanála in relation to the previous application have been addressed in full through the changes in the new application. The proposal includes a mix of uses and has been redesigned to incorporate a 2 storey built form addressing Airport Road (Bothar Mór). The café with outdoor terrace will provide an active frontage at this prominent location.
- 8.6.7. The Planning Authority's first planning report considered that the alterations to the design from the previous refusal address the reason for refusal in terms of street frontage, height, presence and definition at this prominent urban street location in Shannon. It concludes however that the outcome of the Masterplan would be beneficial for the future layout/development of the site. None of the Planning

Authority's three refusal reasons refer to Objective 5.9 of the LAP or raise concern over the design of the building, although I do accept the first reason refers to the extent of ground floor 'single use' car parking area. In this regard I would expect the car parking provided would be used by both proposed uses.

8.6.8. The LAP remains the primary statutory planning document for the purpose of assessing this application. Chapter 2 is titled Placemaking Framework sets a goal "*to foster a strong identity and sense of place.*" Section 2.3.2 deals with Shannon Town Centre. It discusses how there is no sense of having arrived at the town centre from the principal approaches including Bothar Mór. Section 2.4.2 deals specifically with 'The Central Area' which is outlined in Figure 2.3. This provides an "*Indicative Sketch only showing possible build out of extended town centre*". This includes the general location of the subject application site which is annotated as number 4- "smaller scale mixed use".

8.6.9. Chapter 5 of the LAP is titled 'Shannon Town Centre and Retail' and sets a goal '*to secure a vibrant and viable town centre*'. Page 54 states-

*"..... the town centre cannot be looked at in isolation as it forms part of a central block that includes the future town centre expansion area .....*

*.....How this block works, and future land use, development, interactions and circulation patterns within it, will be of critical importance to its future viability and success. In this context, reference is made to Chapter 2 which needs to be read in conjunction with this chapter, and which outlines in more detail a placemaking strategy that encompasses the town centre and the remainder of the central block."*

It is important to also repeat section 2.4.2 (Page 29) which states-

*"Consideration of the town centre as a place needs to incorporate the present developed area south of Bothar Mór and the future town centre area to the north of Bothar Mór. These both fall into the area defined as the core retail area (see Chapter 5) and have to be considered spatially as one entity."*

8.6.10. Section 5.2 deals with the existing 'Shannon Town Centre'. Section 5.3 is titled 'Masterplan for the Special Development Area (Shannon Town North) 2009'. This section discusses how the masterplan was prepared in different times and the fine

grained, high density approach with 3-6 storey core retail area is not now considered achievable. Section 5.4 is titled ‘*Future Town Centre Area – North of An Bothar Mór*’ and details that Figure 2.3 of the LAP illustrates a possible expanded town centre core retail area to the north of Bothar Mór. Section 5.4 then details a number of objectives and in this context Objective 5.9 is considered of particular importance.

- 8.6.11. Objective 5.9 of the LAP seeks to enable the creation of a distinct character area, of exemplar design, with a strong relationship and linkages to its site context and to adjoining areas, including lands zoned at MU1, MU2 and the adjacent future civic park at OS1. In particular the Board’s reason for not accepting its Inspectors Report under PL.03.249250 sets out its view i.e.-

*“...the site, and adjoining landholding, required buildings of multiple storeys and also considered that the proposed development was not of exemplar design, as envisaged under Objective 5.9...”*

- 8.6.12. I acknowledge the importance placed on the application site within the context of the Regional Spatial Economic Strategy & Limerick Shannon Metropolitan Area Strategic Plan (See section 6.2 of this report), the Planning Authority’s response to the Appeal and the recently endorsed Shannon Town Centre Masterplan which may receive statutory footing under the review of the current Clare County Development Plan. I also accept the proposed development represents a significant design improvement over the previously refused Aldi application at this site.

- 8.6.13. I having reviewed all of the above and in particular the planning history of the site (under PL03.249250) and the contents of the current LAP which places a significant emphasis on this site and surrounding lands to achieve the creation of a distinct character area of exemplar design.

- 8.6.14. I consider the design of the proposed development does not adequately address the concerns raised in the previous Board’s Order i.e. it does not provide multiple storeys, includes a perfunctory two storey element, remains largely single storey and therefore lacks ambition and fails to provide a satisfactory level of urban design, street frontage, height, presence and definition at this prominent urban street location in Shannon town centre. The proposal would therefore negatively injure the visual amenities of the area upon.



8.6.15. Furthermore, Objective 5.9 seeks a strong relationship and linkages to adjoining areas, including the adjacent future civic park identified as OS1 on the zoning map and located just east of the application site. In this regard the application proposes a poor elevational treatment and no connectivity east of the site to the future civic park. This would be contrary to objective 5.9 and accordingly, the application should be **refused**.

8.6.16. The Board are advised that the concerns raised in this section have not been specifically raised in the decision of the Planning Authority and may be considered a 'New Issue'. The Board may, therefore, wish to consider the provisions of section 131 of the Planning and Development Acts (as amended) to seek the views of the parties.

**8.7. The Regional Spatial & Economic Strategy for the Southern Region (RSES) and the Limerick- Shannon Metropolitan Area Strategic Plan (MASP).**

8.7.1. Since the adoption of both the County Development Plan 2017-2023 (CDP) and the Shannon Town and Environs Local Area Plan (LAP) 2012-2018 (as extended) and prior to the making of this planning application the Regional Spatial & Economic Strategy for the Southern Region came into effect<sup>5</sup>. This includes for the Limerick-Shannon Metropolitan Area Strategic Plan (MASP).

8.7.2. Section 4.0 of the RSES deals with 'National Enablers' and specifically identifies the following for the Limerick-Shannon MASP-

*"Creating a sustainable urban design town centre through the development of an Action Area Plan for Shannon Town Centre.*

Section 7.1 deals with Housing and Regeneration in the MASP. This section states-

*"..... The development of an Action Area Plan for Shannon Town Centre to create a sustainable urban centre and a sense of focus would be a positive initiative."*

Limerick-Shannon MASP Policy Objective 10- Housing and Regeneration states-

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<sup>5</sup> January 31<sup>st</sup> 2020 <https://www.southernassembly.ie/regional-planning/rses>

“ ....

*b. It is an objective to enhance Shannon Town as an attractive residential centre through regeneration, active land management initiatives and the redevelopment of Shannon Town Centre. An Action Area Plan for Shannon Town Centre and required environmental assessments including SEA and AA will be prepared within 3 years of the publication of this RSES and MASP.”*

- 8.7.3. Having considered the Regional context of the site it is clear that recent planning policy has specifically identified the delivery of an Action Area Plan for Shannon Town Centre. It is unfortunate that the RSES and Clare County Council use different language to describe the plan, however noting the contents of the Planning Authority’s response to the appeal, I am satisfied the Action Area Plan and the Shannon Town Centre Masterplan are one in the same in this context.
- 8.7.4. The Shannon Town Centre Masterplan was endorsed by the Elected Members of Shannon Municipal District on the 18<sup>th</sup> of January 2022 (see section 6.7 above). As it stands this Masterplan is not a statutory document but it is intended to be incorporated into the current review of the County Development Plan in which it will receive statutory status.
- 8.7.5. Chapter 7 of the Masterplan is titled ‘Intervention Areas’ and provides an ‘Illustrative Masterplan’ which comprises of several districts which have potential future land uses, proposed improvements to public realm, and new connections to strengthen connectivity in the Town Centre and throughout Shannon. The following are of particular relevance to this application and appeal-
- The Innovation Campus is proposed at the northern side of Bothar Mór. It places buildings along main roads to define frontages, whilst maintaining a wide and open green space in the centre which could be used as a future park.
  - The R471 is proposed to be made more human-scaled, with active street frontages running along its length, and a wider pedestrian area. The street would serve as a focal point and gateway into Shannon Town.

Each of the above areas are then discussed in greater detail in the Masterplan which include schematic drawings, artist impressions and sample photographs of similar type proposals.

- 8.7.6. The Masterplan seeks increased building heights 3 – 4 storey at the location of the application site and a more pedestrian friendly high street. These are to create a sense of enclosure and enhanced level of pedestrian connections north and south across Bothar Mór. Access to these lands would appear to be from a 'New Road' located further east of the application site and connecting up with the existing road known as Bealach Bri that runs east of the existing Skycourt Shopping Centre.
- 8.7.7. The design, layout and location of the proposed development would be inconsistent with this Masterplan and as a result would significantly compromise the ability of the Masterplan to achieve the comprehensive delivery of the Innovation Campus north of Bothar Mór. As a result the proposed development would undermine the delivery of Policy Objective 10 which seeks the redevelopment of Shannon Town Centre through the delivery of an Action Area Plan as set out in the RSES and the Limerick-Shannon MASP. In this context the proposal is also considered premature pending the formal adoption of the Shannon Town Centre Masterplan through the County Development Plan process. Accordingly the application should be **refused**.
- 8.7.8. The Board are advised that the concerns raised in this section have not been raised in the decision of the Planning Authority and may be considered a 'New Issue'. The Board may, therefore, wish to consider the provisions of section 131 of the Planning and Development Act 2000-21 (as amended) to seek the views of the parties.

## **8.8. Appropriate Assessment**

### **8.8.1. Introduction**

- a) The application was accompanied by a Stage 1 Screening Report prepared by Openfield Ecological Services and dated March 2020.

### **8.8.2. Stage 1 – Screening**

- a) The AA Screening Report concludes that-

*“It has been found that significant effects are not likely to arise, either alone or in combination with other plans or projects to the Natura 2000 network. No mitigation measures are relied upon to arrive at this assessment.”*

- b) The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

### 8.8.3. The Proposed Development and Receiving Environment

- a) The application site can be described as a greenfield, agricultural in nature and appearance site within the established settlement boundary of Shannon.
- b) The submitted Screening Report details no significant water course in the vicinity of the site with the nearest being the Clongloghan Stream c. 380m west of the site which drains to the SAC and SPA (See figure 1 of the Screening Report). There are local water courses/drainage ditches along the eastern boundary of the site and to the west of the site. These are identified in figure 2 of the Screening Report and where observed during the site inspection.
- c) The proposed development is for an Aldi store and restaurant/café. The site is not located within a designated European site. The site is located c. 1.3km north of the closest designated sites.

### 8.8.4. European Sites

- a) Given the location of the site, and the nature and scale of the proposed development, the following designated European sites as set out in Table 1 are considered to be within the zone of influence of the application site-

Table 1-

Site Name & Code	Qualifying Interest / Special Conservation Interest	Distance
Lower River Shannon SAC 002165	1029 Freshwater Pearl Mussel <i>Margaritifera</i> 1095 Sea Lamprey <i>Petromyzon marinus</i> 1096 Brook Lamprey <i>Lampetra planeri</i> 1099 River Lamprey <i>Lampetra fluviatilis</i> 1106 Atlantic Salmon <i>Salmo salar</i> (only in fresh water)	c. 1.3km to the south.

	1110 Sandbanks which are slightly covered by sea water all the time 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1150 *Coastal lagoons 1160 Large shallow inlets and bays 1170 Reefs 1220 Perennial vegetation of stony banks 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 1310 Salicornia and other annuals colonizing mud and sand 1330 Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritima</i> ) 1349 Bottlenose Dolphin <i>Tursiops truncatus</i> 1355 Otter <i>Lutra</i> 1410 Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) 3260 Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation 6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinion caeruleae</i> ) 91E0 *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> )	
River Shannon and River Fergus Estuaries SPA  004077	A017 Cormorant <i>Phalacrocorax carbo</i> breeding + wintering A038 Whooper Swan <i>Cygnus</i> wintering A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> wintering A048 Shelduck <i>Tadorna</i> wintering A050 Wigeon <i>Anas penelope</i> wintering A052 Teal <i>Anas crecca</i> wintering A054 Pintail <i>Anas acuta</i> wintering A056 Shoveler <i>Anas clypeata</i> wintering A062 Scaup <i>Aythya marila</i> wintering A137 Ringed Plover <i>Charadrius hiaticula</i> wintering A140 Golden Plover <i>Pluvialis apricaria</i> wintering A141 Grey Plover <i>Pluvialis squatarola</i> wintering A142 Lapwing <i>Vanellus</i> wintering A143 Knot <i>Calidris canutus</i> wintering A149 Dunlin <i>Calidris alpina</i> wintering A156 Black-tailed Godwit <i>Limosa</i> wintering A157 Bar-tailed Godwit <i>Limosa lapponica</i> wintering A160 Curlew <i>Numenius arquata</i> wintering A162 Redshank <i>Tringa totanus</i> wintering A164 Greenshank <i>Tringa nebularia</i> wintering A179 Black-headed Gull <i>Chroicocephalus ridibundus</i> wintering A999 Wetlands	c. 1.3km to the south.

b) Conservation Objectives-

- SAC- Available to view at- [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO002165.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002165.pdf)
- SPA- Available to view at- [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO004077.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004077.pdf)

- c) I have considered other European Sites in the wider area. I am satisfied these can be 'screened out' on the basis that significant impacts on such sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the appeal site.

#### **8.8.5. Test of Likely Significant Effects**

- a) The project is not directly connected to or necessary to the management of any European site. The proposed development is therefore, examined in relation to any possible interaction with European sites to assess whether it may give rise to significant effects on in view of the conservation objectives of those sites.
- b) I have reviewed the contents of the submitted screening report which identifies the same European Sites for consideration and their Qualifying Interests.
- c) Based on the source-pathway-receptor model and taking account of the characteristics of the proposed development in terms of its nature, location and the scale of works, the sites proximity to European sites and having regard to the NIS carried out for the County Development Plan and implications for this site, the following issues are considered for examination in terms of likely significant effects on the European sites-
- Potential for impacts on water quality as a result of inadequate wastewater treatment through connection to Shannon WWTP and discharge to the SAC.
  - Potential for impacts on water quality as a result of proximity to surface water streams/drainage ditches which discharge to the Shannon Estuary.

#### **8.8.6. Potential Effects**

- a) The Screening Report identifies the following-
- No loss of habitat inside any SAC or SPA due to separation distance. Only indirect impacts possible.

- There is a potential pathway for construction pollutants via the open drainage network.
  - Pollution during operation via surface and wastewater flows to the Shannon Estuary.
  - The site is distant from the European sites and therefore there will be no disturbance from noise or light
  - A site visit during optimal survey periods recorded no wintering birds associated with the SPA and therefore no ex-situ impacts.
- b) Having considered the above and having regard to the urban context of the site and the nature of the proposed development, I consider the potential pathways between the appeal site (source) and the European sites (receptors) would relate to drainage during construction and operation stage. I consider standard construction methods would generally be sufficient to address these considerations during both stages.
- c) Due to the nature of the application site and the proposed development, there is a potential indirect pathway to the SAC and SPA via surface and foul drainage networks and the Shannon Wastewater Treatment Plant (WWTP).
- d) The Shannon WWTP has been subject to upgrade<sup>6</sup>. These works have improved the wastewater treatment performance, increased the capacity at the plant and ensure compliance with the Wastewater Treatment Regulations. The Irish Water website indicates these works have been completed and I note documentation on the Clare County Council website indicate the capacity is now 28,500 pe<sup>7</sup>. Given the nature of the site, the proposed development, its location within Shannon on zoned land, it is considered the proposal would give rise to an insignificant increase in the loading at the Shannon WWTP, which now has sufficient capacity to facilitate the development. Furthermore connection to the public system would be subject to Irish Water consent and would only be given where compliance with EPA licensing in respect of the operation of the plant would not be breached. The distances are such that any

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<sup>6</sup> <https://www.water.ie/projects/local-projects/shannon-sewerage-scheme-a/>

<sup>7</sup> <https://www.clarecoco.ie/your-council/about-the-council/chief-executive-reports/2021/chief-executives-report-september-2021-44002.pdf>

pollutants in discharge post treatment from the Shannon WWTP would be minimal and would be sufficiently diluted and dispersed. I am satisfied that wastewater from the proposed development will not have a significant effect and would not adversely affect the integrity of the identified European sites.

- e) Question 20 of the Planning Application form details that surface water will be disposed of to the public sewer. The Engineering Planning Submission Report (section 3) details the lack of information on the location of existing surface water pipework on the roadside outside the site and connection should be assumed to the nearest point on public property to the culvert east of the site. The identifiable existing drainage network is shown on drawing 17052 100 Rev C with an existing manhole likely buried. Section 3 also details surface water from the development to be minimised by the provision of Sustainable Urban Drainage Systems (SuDS). Given the location of groundwater at 1.5-2m below ground level direct infiltration is not proposed. The application proposes site attenuation with discharge to the existing culvert east of the site at a reduced rate limited to the equivalent greenfield runoff rate following attenuation. Such waters will be treated prior to discharge. See drawing 17052 101 rev E. The AA Screening Report details these are standard measures integral to all development projects and are not included to reduce or avoid effects to the Natura sites. In this regard I do not consider these to be mitigation measures for the specific purpose of avoiding impacts on European Sites and would instead be best practice measures for all development of this type.

#### **8.8.7. In-combination Impacts**

- a) The Screening Report discusses the ongoing implementation of the Water Framework Directive resulting in overall improvements to water quality throughout the Shannon catchment.
- b) The proposal should be considered as part of the wider development of Shannon as part of the LAP and the County Development Plan. These plans were also subject to AA by the Local Authority.
- c) ABP had recently permitted 48 houses under ABP-311994-21 c. 250m east of the site. There is also a current application for 55 houses and a creche to the



east of that site which is at further information stage with the Planning Authority. These applications will rely on public wastewater and surface water network connections.

- d) Having regard to the above, I do not consider there to be any other specific and permitted planning applications or projects in the immediate area that could have significant in-combination effects with the proposed development on the identified European Sites.

#### **8.8.8. Conclusion**

- a) 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 Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not be likely to have a significant effect on the following European Sites-

- Lower River Shannon SAC 002165
- River Shannon and River Fergus Estuaries SPA 004077
- or any other European sites, in light of the sites' Conservation Objectives', and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.

In reaching this conclusion, I took no account of any specific 'mitigation measures' intended for this site to avoid or reduce the potentially harmful effects of the project on any European Sites.

### **9.0 Recommendation**

- 9.1. I recommend that permission is refused for the following reasons-

### **10.0 Reasons and Considerations**

1. Having regard to the prominent location of the site in the centre of Shannon Town, the layout of the proposed development, the predominantly single storey form of the building, and the overall design of the proposal, it is considered that the proposed development fails to provide a satisfactory level

of urban design and street frontage, height, presence and definition at this prominent urban street location on lands identified as the 'Central Area' and zoned 'Town Centre' as set out in the Shannon Town and Environs Local Area Plan 2012–2018 (as extended). Furthermore the proposed development does not provide strong relationship and linkages to its site context and to adjoining areas, including the adjacent future civic park directly east of the application site and identified as OS1 on the Zoning maps. The proposed development would, therefore, seriously injure the visual amenities of the area, would be contrary to Objective 5.9 of the Local Area Plan and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would undermine the delivery of Policy Objective 10 of the Limerick-Shannon Metropolitan Area Strategic Plan as set out in the Regional Spatial Regional Spatial & Economic Strategy for the Southern Region which seeks the redevelopment of Shannon Town Centre through the delivery of an Action Area Plan. Consequently the proposed development is considered premature pending the formal adoption of the Shannon Town Centre Masterplan. Therefore, the proposed development is considered contrary to the proper planning and sustainable development of the area.

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Adrian Ormsby  
Planning Inspector

15<sup>th</sup> of June 2022