



An
Bord
Pleanála

Inspector's Report

ABP-311511-21

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| Development | Construction of a 2 storey drive-thru restaurant and parking spaces |
| Location | c. 0.47 Ha. site at the Dublin Road, Rosebank Retail Park, in the Townlands of Attirory and Attifinlay |
| Planning Authority | Leitrim County Council |
| Planning Authority Reg. Ref. | 2142 |
| Applicant(s) | McDonalds Restaurants Ireland Ltd. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant permission |
| Type of Appeal | Third Party |
| Appellant(s) | EMAC Catering Ltd. |
| Observer(s) | Claire Donlon. |
| Date of Site Inspection | 10 th of March 2022. |
| Inspector | Stephanie Farrington |

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1.0 Site Location and Description

- 1.1. The appeal site lies c. 1km to the east of Carrick-on-Shannon town centre, immediately south of the N4 and within the existing Rosebank Retail Park. The site, which has a stated area of 0.47ha, is brownfield in nature and comprises of a combination of hardstanding (granular surfacing) and soft landscaping. The site slopes from east to west and includes a ditch along its northern boundary.
- 1.2. The existing pattern of development within the immediate vicinity of the site is primarily commercial. The N4 Dublin to Sligo Road forms the northern boundary of the site and the N4/ retail park roundabout is located to the east. The southern boundary of the site is adjoined by an internal access road.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a 2 storey drive thru restaurant and ancillary sale of hot food for consumption off the premises. The restaurant has a gross floor area of 418 sq.m.
- 2.2. The development includes 31 no. car parking spaces, signage, landscaping and all associated site development works. Access to the development is proposed via the existing retail park access road to the south.
- 2.3. The following documentation is submitted in conjunction with the application:
 - Planning Report
 - Traffic and Transport Assessment
 - Flood Risk Assessment
 - Infrastructure Report
 - Preliminary Ecological Report
 - Knotweed Management Plan
 - Appropriate Assessment Screening
 - Verified Views
 - Architectural Drawings

- Infrastructure Drawings

3.0 Planning Authority Decision

3.1. Decision

Leitrim County Council issued a notification of decision to grant permission for the development subject to 20 no. conditions. The following conditions are of note:

Condition 3

Condition no. 3: (a) A revised Site Layout Plan shall be submitted to for written agreement with the Roads Design Office in LCC prior to the commencement of development which provides for the following:

Pedestrian facilities and a pedestrian crossing linking the site to Woodies car park inclusive of necessary amendments to the car park.

A yellow box at both the McDonalds and Woodies junction from the internal access road.

(b) The provision of a stage 2 and 3 Road Safety Audit

Reason: In the interest of enhancing pedestrian access and traffic movement.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report (27th of Aril 2021)

The initial planner's report recommends a request for further information. The following provides a summary of the key points raised:

- The principle of the proposal is welcomed and the general design and layout are commendable.
- A request for further information is recommended in relation to traffic and transportation issues having regard to the contents of the third party submissions, the submission from Transport Infrastructure Ireland, the NRDO and Leitrim County Council Road Design Office.

- Other points raised within the FI request include - Item 1 details of the operation of the proposed restaurant and opening hours. Item 11 relates to the justification for the proposal in the context of the guidance set out within the LAP Guidelines for Planning Authorities 2013 in relation to the siting of takeaways in relation to schools.

Planner's Report (1st of September 2021)

- A summary of the applicants FI response is provided. It is noted that the application boundary was amended in response to the FI request, and the site area has increased slightly from 4,688 sq.m. to 4,691 sq.m.
- Reference is made to the planning history of the site. There is an extant permission in place for a petrol filling station which includes a drive thru restaurant as permitted by An Bord Pleanala. The duration of this permission was extended to January 2023 under PA Ref 17/40.
- No objection is raised in relation to the principle of the proposal within a Retail Park. There are no policies or objectives within the Leitrim County Development Plan or Carrick on Shannon LAP which relate to the location of takeaways in proximity to schools.
- Reference is made to the recommendations of the Road Safety Audit. 2 of the 5 recommendations have been incorporated. A number of the recommendations relate to works outside of the application boundary. However the land involved is located within the overall landholding of the same landowner on whose land the applicant obtained consent to make the application. This can be addressed by means of condition.
- A summary of submissions/observations on the FI response is provided. Particular reference is made to the concerns raised within the submission on the FI response by Transport Infrastructure Ireland. Having regard to the applicant's FI response and the points raised within the Road Design Office report it is stated that the site can accommodate the drive thru without impacting on the N4.

- The report outlines that the FI response has substantially addressed the concerns by the planning authority as raised within the FI request. A grant of permission is recommended.

3.2.2. Other Technical Reports

Fire Officer (14/04/21)

- No objection. Advice notes attached for the applicant.

National Roads Design Office (8th of April 2021)

- The development is located within the constraints study area for the N4 Carrick on Shannon to Dromod Project. Recommends that the file is referred to TII and the LCC Road Design Office.

Leitrim County Council Road Design Office (1st of April 2021)

- This report recommends a request for further information.

Water Services Department (8th of April 2021)

- No objection. A pre-connection enquiry shall be submitted to Irish Water to determine if the connection is feasible.

Waste Water Services (16th of March 2021)

- No objection. A pre-connection enquiry shall be submitted to Irish Water.

Enforcement Officer (8th of April 2021)

- No objection to the proposal.

Environmental Health Officer (31/03/2021)

- No objection is raised. A condition relating to pest control measures at construction phase is recommended.

Road Design Office (1st of September 2021)

- Recommends revisions to the site layout including revisions to the site access or as an alternative provision of a pedestrian crossing and yellow box from the Woodies car park.

Enforcement Officer (10/08/21)

- No objection subject to condition.

3.3. Prescribed Bodies

Transport Infrastructure Ireland (31st of March 2021)

The following provides a summary of the points raised within TII's initial submission on the application.

- The development is considered to be at variance with official policy in relation to the control of development on/affecting national roads.
- Insufficient data has been submitted in conjunction with the application to demonstrate that the proposal will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.
- The application does not sufficiently demonstrate that the national road network is not negatively impacted by the proposed development and that there is potential for queuing at the drive through lanes, internal road network and onto the N4.
- TII considers that trip generation assumptions are underestimated.
- TII recommends that a micro simulation model is produced to include the queuing lanes in the development as well as access to the development, the internal retail park road network and the National Road Network.

Transport Infrastructure Ireland (19th of August 2021)

TII's submission on the applicant's FI response outlines that the proposal is at variance with national policy in relation to the control of development on/ affecting national roads. The following concerns are raised:

- The development would endanger public safety by reason of traffic hazard due to its scale and distraction to drivers.
- Insufficient data has been provided with the application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network.
- The application does not sufficiently demonstrate that the national road network wont be impacted by the development. Congestion on the national

route is significant. In the absence of appropriate controls and reconfiguration of the layout there is serious potential for queuing at the drive thru lanes of the proposed development to cause further queuing on the internal retail park road network and subsequently the national road.

- Peak time trip generation figures are underestimated.
- Data sources used do not reflect similar locations e.g. edge of town site located on a national road providing through access.

3.4. **Third Party Observations**

Observations on the application were received during the initial statutory consultation period and on receipt of the applicant's FI response. The following provides a summary of the relevant points raised.

- Visual Impact of the Proposal – The development will have a negative visual impact at an entrance to the town.
- Location of the Proposal – Concerns are raised in relation to the proximity of the development to existing schools. It is stated that there is an overconcentration of drive thru restaurants in the area.
- Impact on Carrick on Shannon Town Centre – The proposal will negatively impact on existing food retailers within the town centre.
- Traffic Impact – The proposal will result in congestion on the N4 and safety impacts on cyclists and pedestrians. Concerns are raised in relation to the information and assumptions used within the submitted Traffic and Transportation Assessment.
- Flood Risk – The site is located on lands which are prone to flooding.

4.0 **Planning History**

The following planning history relates to the appeal site:

PA Ref: 11/267, ABP Ref. PL12.240704

Planning permission granted by Leitrim County Council and An Bord Pleanala in January 2012 for a petrol filling station, drive thru restaurant and associated signage, landscaping, improvements to the road network and all associated works.

The decision of An Bord Pleanala to grant permission for the development was subject to 13 no. conditions. The following conditions attached to the permission are of note:

Condition no. 2: The proposed development shall be amended as follows:

- (a) Design details, including construction works, shall be agreed in writing with Leitrim County Council;
- (b) The island on the N4 approach road shall be omitted;
- (c) The entrance to “Woodies” shall be relocated and pedestrian facilities provided, as shown on drawing number NRB-ABP-002;
- (d) The recommendations in the Roads Safety Audit Stage 1 shall be adhered to;
- (e) A Road Safety Audit Stage 2 shall be completed;
- (f) A landscaping plan for the revised roundabout shall be agreed with the planning authority.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

Condition no. 3: Prior to commencement of the operation of the proposed development the amendments to the junction with the N4, shall be completed to the satisfaction of the planning authority, as confirmed in writing.

Reason: In the Interest of road safety.

PA Ref. 17/40 – Planning permission granted for extension of duration of PA Ref: 11/267, ABP Ref. PL12.240704 in May 2017. The duration of the permission was extended until January 2023.

Planning permission was refused by An Bord Pleanála in November 2008 for the development of a petrol filling station on the site. Permission was refused on grounds of traffic hazard and flood risk.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is located within the administrative boundary of Leitrim County Council and subject to the policies and objectives of the Leitrim County Development Plan 2015-2021 and the Carrick on Shannon Local Area Plan 2010-2019.
- 5.1.2. The planning department in Leitrim County Council verbally confirmed that the Carrick on Shannon LAP remains in place until it is replaced. The Draft Leitrim County Development Plan 2023-2029 is currently on public display.

Carrick on Shannon Local Area Plan 2010-2019

- *Zoning:*

The site is primarily zoned for “Commercial Town Expansion” purposes within the LAP. The LAP outlines that *“it is envisaged that lands zoned Commercial Town Expansion will accommodate a broad range of commercial activity that would support the development of the town centre”*.

Objective 2.3d: *“To seek the development of lands zoned “Commercial Town Expansion” for commercial, retail, light industrial, educational, health, community and relates uses”*.

A portion of land to the north of the site is zoned for “open space and amenity” purposes.

Objective 2.3e outlines that: *“It is an objective of the Council to seek the development of lands zoned ‘Open Space & Amenity’ for recreational and amenity uses”*.

Restaurants are listed as “acceptable in principle” and fast food take away are listed as “open for consideration” on lands zoned for “commercial town expansion” purposes.

- *Roads Objective:*

Policy 5.1 a of the LAP sets out the following long term road objective for the area:

“It is the policy of the council to construct a by-pass around the town as part of the N4 national primary route, in partnership with the NRA. A preferred route has been previously identified but is now subject to review. Pending the finalisation of this route no new development (other than minor works or alterations to existing premises) will be allowed within the constraint study area as identified in Map 8 without the consent of the NRA”.

Policy 5.1c outlines that:

“It is the policy of the Council to protect the safety, carrying capacity and efficiency of the existing (and future) N4”.

Section 2.13.01 of the Carrick-on-Shannon Local Area Plan states that proposals for development in the flood plain will only be favourably considered where the planning authority is satisfied that the development is of significant strategic importance for the town and the mitigated impact on the flood plain is acceptable.

Development Management

Section 3 of the LAP sets out Development Management Standards.

Table 3.1 Car Parking Standards:

- Restaurant/ Café: 1 car space per 6 m² of public floor space

Section 3.03.04 of the LAP sets out the following guidance in respect of Hot Food Take-Aways:

“Hot food take–aways will only be permitted where they do not interfere with the amenity of other businesses and neighbouring residences. In this regard potential smell, late night noise and potential litter will be taken into consideration. Planning permissions for take-aways may have a condition attached obliging them to close by 1.00am, or otherwise if deemed appropriate”.

Advertising

Section 3.05.02 of the LAP relates to the Design of Advertising. The following guidance is set out:

“The Council will seek to avoid a proliferation of advertisements in the town.

Proposals for signs and advertising structures should:

- *be in scale and harmony with the surrounding environment;*
- *not interfere with the safety and free flow of pedestrian and vehicular traffic;*
- *not obscure traffic signs;*
- *not impair the amenities of the area;*
- *not interfere with windows or other features of a building façade; and*
- *not project or obtrude, in whole or part, above the eaves of the building or skyline.*

Large billboard/prismatic advertisement hoardings will not normally be permitted”.

Flooding

Policy 13.4c of the LAP outlines that: *“It is the policy of the Council to protect the floodplain of the Shannon. Planning permission for development on the floodplain will only be granted in exceptional circumstances and where the Council is satisfied that downstream (and upstream) consequences are insignificant. The Council must be satisfied that all floor levels in such developments are sufficiently high above the maximum recorded flood levels. While the maximum recorded flood level in 2000 was 42.363 OD (Malin) and 42.690 OD (Malin) in 2009, future floods may exceed this level. Accordingly minimum floor levels of 43.365 OD (Malin) and minimum finished ground levels 42.815 OD (Malin) will normally be required. However, the Council may vary these levels upwards in certain circumstances”.*

Leitrim County Development Plan 2015-2021

Section 5.1.2 relates to the Location of Development:

“New development will be encouraged to locate in existing towns and villages where services can be economically provided and the social and urban structure can be consolidated; in accordance with the principles of sustainable development.

Generally, the Council will encourage development in town and village centres”.

5.2. Section 28 Ministerial Guidelines

- Design Manual for Urban Roads and Streets (DMURS) 2019
- The Planning System and Flood Risk Management Guidelines

5.3. Natural Heritage Designations

5.3.1. There are no Natura 2000 sites within 15km of the appeal site. The following Natural Heritage Areas (NHA's) and Proposed Natural Heritage Areas (pNHA's) are located within 15km of the site:

Proposed Natural Heritage Areas

- Lough Drumharlow pNHA, Sheemore Wood pNHA, Annaghealy Lough pNHA, Lough Boderg And Lough Bofin pNHA, Kilglass And Grange Loughs pNHA, Fin Lough (Roscommon) pNHA, Drumman's Island (Lough Key) pNHA, Drum Bridge (Lough Key) pNHA, Tawnytaskin Wood (Lough Key) pNHA and Hog's Island (Lough Key) pNHA.

Natural Heritage Areas

- Corracramph Bog NHA

5.4. EIA Screening

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by Marston Planning Consultancy on behalf of EMAC Catering Ltd. The following provides a summary of the grounds of appeal:

Site Context

- Reference is made to the planning history pertaining to the site. It is stated that the restaurant element of the development permitted under ABP Ref PL12.240704 was very small compared with the current proposal (260 sq.m.) and was served by just 10 no. car parking spaces. The local traffic context has also changed.

Nature and Extent of the Proposed Development

- The applicant has not considered the context of the subject site and in particular the existing uses within the vicinity. Given the existence of the existing KFC which will reopen under a different user the proposed development will result in an over concentration of drive thru restaurants and take away facilities within the vicinity. The cumulative impact of the existing and proposed facility has not been assessed by the applicant.
- The applicant has not sufficient addressed Item 1 of LCC's request for further information. The location of take-away facilities in close proximity to schools has been subject to policy changes. The 2013 Local Area Plan Guidelines for Planning Authorities acknowledges the important role that planning has in the promotion of active, health living patterns. The Carrick on Shannon LAP predates these policy changes. The appeal site is located within 400m of the nearest secondary school.
- No justification or rationale is provided for a 2 storey building in this location. The contiguous elevations illustrate that the proposed height is out of scale with buildings in the vicinity particularly to the east.
- Reference is made to the guidance in the Leitrim County Retail Strategy 2015-2021 in relation to the demand for services such as restaurants "in the town" being high. The appeal outlines that the site is located over 1km from Carrick on Shannon town centre. It is stated that the proposal would affect the vitality and viability of Carrick on Shannon town centre.
- The site is an inappropriate location for an additional drive thru/take away within Carrick on Shannon.
- Reference is made to the guidance set out within Section 3.03.04 of the Carrick on Shannon LAP which outlines that takeaway's may have a condition

obliging them to close by 1am. No such condition was imposed by Leitrim County Council.

Alternative Locations

- The applicant has not provided a detailed robust justifiable consideration of setting aside the reuse of the existing drive thru facilities in close proximity to the subject site.
- The proposal would detract from a potential operator taking over the existing former KFC premises to the east of the subject site. This would result in long term vacancy within the retail park.

Traffic Impact

- Cross reference is made to the Technical Note prepared by Martin Peters Associates Consulting Engineers attached to the appeal.
- The proposed development would represent a serious and negative traffic impact on the adjoining road network.
- The concerns raised within the LCC's request for further information or the submission on file from TII have not been appropriately addressed by the applicant. The proposal has the potential to result in back up on the national road roundabout, resulting in obstruction of free flow of traffic at this location and endangering public safety by reason of traffic hazard. A number of serious omissions are detailed within the TII's submission on the applicant's FI response. These are not addressed by the planning authority.
- Reference is made to inadequacies in the traffic information submitted to Leitrim County Council. The projected volume of traffic is underestimated and identified peak hours of 3.30pm to 4.30pm is factually incorrect. The cumulative impact of the operation of 2 no. drive thru facilities within the Retail Park has not been addressed by the applicant. The capacity assessment of the N4 Dublin Road/Retail Park roundabout have not been undertaken correctly. The model overestimates road widths.
- The proposal will lead to serious congestion on the N4 during the main late afternoon and evening peak 4.30pm – 7.30pm. The proposed development

would contribute to traffic congestion and obstruction of traffic in the vicinity. The proposed development should be refused on this basis.

- The yellow road markings will not impact on queue lengths beyond the confines of the site. Pedestrian crossing facilities are lacking in the area.

Flood Risk and Environment

- The site is located 400m from the boundary of the River Shannon in an area of land between the River and the N4 motorway which has been prone to flooding.
- Concerns are raised in relation to contamination of the River Shannon which is a designated SAC downstream of the site.
- Notwithstanding the proposed floor levels a substantial proportion of the site is subject to flooding.
- The LAP zoning of the subject site is considered inappropriate.
- The proposal cannot be considered of significant strategic importance as referred to under Section 2.13 of the LAP.

Conclusion

- The Board is requested to refuse permission for the development on grounds of traffic safety issues, flood risk, overconcentration of drive-thru restaurants in the area in close proximity to existing schools and impact on the viability of Carrick on Shannon town centre.

Technical Note – Martin Peters Associates Consulting Engineers

Key points raised within the technical report are summarised as follows:

Non-car accessibility

- Safety concerns are raised in relation to the non-provision of safe off-site pedestrian crossing facilities over the Woodies access road. This was identified within the report by the LCC Roads Design Office and considered necessary within the Stage 1 Road Safety Audit (RSA). The requirement of Condition no. 3 of LCC's decision are noted but it is stated that there is no guarantee that such a link can or will be delivered.

- The site is not accessible by public transport.
- The Mobility Management Plan submitted is not specific or measurable.

Proposed Vehicular Access

- Concerns are raised in relation to the revisions proposed to the internal road network including the reduction in length of the existing right turning lane which serves Woodies.
- The potential conflict/interaction between the Woodies and proposed McDonalds right turn pockets was also raised as an issue within the Stage 1 Road Safety Audit.

Boundary Hedge

- The appeal also outlines that headlights from cars within the drive thru may dazzle drivers travelling westbound on the N4 Dublin Road.
- It is acknowledged that the proposals include a boundary hedge between the drive-thru and the N4 Retail Park access road but there is no detail given on the proposed height of the hedge, its thickness, its nature or long term retention.

Car Parking and Servicing

- The appeal outlines that insufficient car parking has been provided within the development.
- Road safety concerns are raised in relation to serving arrangements. The appeal outlines that the swept path analysis illustrates that the car park would need to be empty to accommodate the development.

Trip Generation and Distribution

- The submission on file from TII identified that trip distribution assumptions within the original TTA were underestimated. Trip rates are stated as being too low and the applicant has not suitably demonstrated that the development would not have a detrimental impact on capacity, safety, or operational efficiency of the national road network in the vicinity of the site. This point was not addressed within the applicants FI response.

Traffic Impact

- Survey data is not included within the TTA. The afternoon peak period is earlier than would be expected. The growth factors applied are considered low. No committed development has been included within the future year traffic flows.
- The assumptions identified within the Ratio to Flow capacity within the TTA are unrealistic given the high flows already using the N4 corridor and the roundabout.
- The junction modelling information set out within Appendix D of the TTA includes inaccurate dimensions for the adjoining road network. The capacity of the roundabout is therefore over estimated, and queuing and delays associated with the proposal are underestimated.
- The assessment of traffic impact are not considered to be robust and must be revisited. This will require revised trip rates, inclusion of committed development and a completely new capacity model which more accurately represents the geometric parameters of the N4/Dublin Road/Retail Park roundabout.
- Concerns raised by TII in relation to queuing on the N4 roundabout have not been sufficiently addressed within the application.
- The microsimulation model does not include the Retail Park access road or the Dublin Road/retail park roundabout and wider approach roads to the appeal site. The baseline information used in the modal relates to the am peak (08.30 to 09.30). However, this does not represent the peak hour of the development which would be sometime between 12.00 and 14.00.
- Concerns relating to queuing are also raised within LCC's Design Office report. The proposed solution of parking within the Woodie's car park does not address queuing associated with the drive thru. The introduction of yellow boxes cannot address the queuing issue.

6.2. Applicant Response

Thornton O' Connor Town Planning prepared a response to the grounds of appeal. The response is accompanied by a separate report prepared by AECOM Ireland Limited which addresses the transport issues raised within the appeal. The following provides a summary of the main points raised.

Provision of a 2nd Drive-Thru Restaurant within the Retail Park:

- Co-location of drive thru restaurants in retail parks is established at other locations in the country including Carrickmines Retail Park and Liffey Valley Retail Park. The applicant has addressed the cumulative traffic impact associated with 2 no. drive thru restaurants within the retail park. There is no evidence provided within the appeal that the proposal will lead to the closure of existing facilities and services within Carrick on Shannon town centre. The appeal could be considered vexatious and anti-competitive in nature. It is not considered that co-location of two drive-thru restaurants will have any material impact on its receiving environment.

Opening Hours:

- Reference is made to the Guidance set out within Section 3.03.04 of the Carrick on Shannon Local Area Plan relating to hours of operation of hot food takeaways. The appeal response outlines that McDonalds is classified as a restaurant and not a takeaway. The takeaway element of the proposal is ancillary to the restaurant as clarified by planning precedent (ABP Ref 29S.239628, Dublin City Council PA Ref: 2969/11 McDonalds restaurant in Temple Bar).
- The proposed 24 hour opening will not impact on other businesses within the retail park. In this regard it is stated that no objection has been submitted on behalf of any of the existing businesses within the retail park. 24 hour operations is established within a number of retail parks throughout the country.
- The issue of impact on residential amenity does not arise in the context of the appeal site.

- Having regard to the amenity that will be provided by a 24 facility (including toilet facilities for early morning/shift workers) and lack of potential for impact on residential amenity it is stated that a 24 hour operation is appropriate for the site.

Proximity to Schools:

- The appeal response sets out a justification for site selection on the basis of the sites zoning objective and the existing complementary uses within the retail park.
- An Bord Pleanála have previously determined that “Local Area Plans Guidelines for Planning Authorities” affect forward planning only and are not relevant to development management. The issue of proximity to schools is not relevant to the Development Management process if there is no relevant policy in the Development Plan. Reference is made to ABP Reference PL27.244883 McDonalds Restaurant in Greystones, Ballincollig Cork PL04.240935 and Citywest PL06S.244369) where similar issues arose.
- The Leitrim County Development Plan was adopted after the publication of these guidelines. No policies or objectives are included within the plan in relation to the siting of fast food outlets in the vicinity of existing schools.

Flood Risk

- Cross reference is made to the Technical report prepared by AECOM Consulting Engineers attached as Appendix A of the appeal.
- The drainage features identified are SuDS features and are standard to any development regardless of connection with a European site. The determination remains unchanged in terms of source-pathway-receptor model and in this way, there are no direct pathways to the River Shannon and any hydrologically linked European sites are located such a distance downstream that potential significant effects are highly unlikely.

Traffic Issues

These are addressed within the report prepared by AECOM Consulting Engineers attached as Appendix B of the appeal response.

Appendix A – Technical Note “Flooding” prepared by AECOM

- Cross reference is made to the site specific flood risk assessment submitted in conjunction with the application.
- The proposed development is classified as “less vulnerable development” on Flood Zones B and C. Part of the site is located within Flood Zone A – a justification test is provided in this context. The main part of the site which is designated as Flood Zone A is concentrated along the drainage ditch to the north of the site.
- Lands zoned for open space and amenity will be unaffected by the proposal.
- The development adheres to the guidance for levels as set out within Policy 13.4c of the Carrick on Shannon LAP.
- With reference to potential contamination of the River Shannon from the proposed development during flood events it is noted that all run off generated within the proposed development will be captured in a designated surface water network attenuated within the site, and released into the retail park surface water network at a restricted rate corresponding to an equivalent greenfield run off rate. All run off leaving the site will pass through a fuel and oil interceptor prior to entering the retail park sewer network.

Appendix B – AECOM Response to Third Party Appeal

- Traffic and Transport impacts associated with the development are acceptable.
- The development is accessible by a means of transport other than the car, especially walking and cycling;
- Parking provision is in line with LCC parking requirements and includes additional spaces for EV's;
- Servicing (3-4 times per week) will be undertaken outside of peak periods and at times which will allow manoeuvring of the service vehicle;
- The trip generation rates are deemed appropriate for a restaurant of this size and in this location.

- The potential re-opening of the KFC restaurant has been examined and the impacts are likely to be negligible;
- Further tests on the junction modelling have taken place on the N4 Dublin Road/site access roundabout and shows that in terms of changes to Ratio to Flow Capacity with the development in place, these are small and similar to those included in the TTA.
- Considerable analysis has been undertaken into the impacts of queuing especially in response to the RFI and the development of a microsimulation model, showing that any queues from the drive through will remain on site and not impact on the N4/site access roundabout;
- There are no headlight issues as detailed in the Stage 1 RSA.

6.3. Planning Authority Response

Leitrim County Council provided a response to the grounds of appeal. The following provides a summary of the response.

Procedural

- Status of Carrick on Shannon Local Area Plan: The status of the LAP remains until superseded by a new LAP. The current LAP has not expired and the relevant zoning and policies remain relevant in the assessment of any application.

Siting and Alternative Sites

- Location: Vehicular access to the NCT test centre is provided onto the L3655-1 to the east of Rosebank Retail Park and not via the N4.
- Planning History: The planning history was taken into consideration in the assessment of the application. Reference is made to the petrol filling station and drive thru permitted on site under PA Ref: 11/267. The floor area of the permitted drive thru was 188 sq.m. and the floor area of the proposed drive thru is 119 sq.m. The current application was accompanied by a traffic impact study which addressed current traffic levels.

- Nature and Extent of the Proposed Development & Alternative Sites: The development is considered appropriate having regard to the location of the site within a retail park, the zoning objective pertaining to the site, the nature of development within the vicinity and the sites planning history. The existence of another restaurant and drive thru facility in close proximity to the site does not make the proposal contrary to the proper planning and sustainable development of the area.
- Additional Drive Thru/ Takeaway: It is considered that the development will not interfere with the amenity of other businesses and neighbouring residences and in this instance given the location of the site, the inclusion of a condition relating to the closing time was not considered appropriate.
- The applicant has responded satisfactorily to Item 1 of the FI request. The issues raised in relation to the location of fast food outlets in proximity to schools is addressed within the planner's report dated 01/09/2021.

Flood Risk:

- The issue of flooding has been adequately addressed both in the application and in the assessment of the application.

Access and Transport:

- The Planning Authority provided the following response to the various access and transportation issues raised within the appeal.
- Pedestrian connection: The reference to the requirement for a safe pedestrian connection between the development and the existing Woodies car park is noted. This is addressed within Condition no. 3 of the planning authority's decision. There is no reason why this link cannot be delivered.
- Public Transport: The site is served by public transport.
- Mobility Management Plan: The submitted MMP is considered satisfactory to the Planning Authority.
- Site Access Junction & Trip Generation: The capacity of the site access and potential impact of the development on the N4 was considered in detail by the planning authority and addressed within the applicant's response to the

request for further information. The planning authority have nothing further to add in this regard.

- **Boundary Hedge:** It is considered that Condition 7 a-c address the concerns raised in relation to the boundary hedge as it specifically relates to landscaping and external and internal boundaries of the site.
- **Car parking:** The proposed car parking provision is in accordance with the requirements of Table 3.1 of the Carrick on Shannon Local Area Plan. The planning authority is satisfied with the proposed car parking provision.
- **Servicing:** The management and servicing of the site is a matter for the applicant.
- **Inadequacies in the information submitted to LCC:** The planning authority considered in detail to the applicant's FI response and traffic information submitted. TII's concerns are addressed within the planner's report dated the 1/09/21.

Conclusion:

- Having regard to the location of the proposed development on zoned serviced lands, its location within a Retail Park, and having regard to the policies and objectives of the Leitrim County Development Plan and the Carrick on Shannon Local Area Plan, to support population stabilisation and the strengthening of the urban structure through economic development, it is considered that the proposed development would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.
- The Planning Authority recommends that An Bord Pleanála upholds the decision of Leitrim County Council to grant permission for the development.

6.4. **Observations**

An observation was submitted by Claire Donlon in respect of the appeal. The following provides a summary of the main issues raised.

- The development is located in close proximity to 3 no. schools and is less than 500m from a large secondary school. This is contrary to 2013 Local Area Plan Guidelines for Planning Authorities, which emphasises the importance of helping children make healthy choices and limiting the availability of high fat food.
- The development will lead to an over-concentration of drive-thru/fast food outlets in the area.
- The development will lead to traffic flow problems and will be a danger to pedestrians.
- The development will impact on the vitality of Carrick on Shannon town centre and many locally owned businesses.
- Flood risk- The area is prone to flooding. An Bord Pleanala refused permission for a supermarket in close proximity to the site on grounds including flood risk.
- Visual impact of the proposal- the restaurant and associated signage will give a poor impression of the town.
- The development will result in increased carbon emissions leading to poor air quality, particularly with cars at the drive thru.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Proposal and Compliance with Policy
- Design, Layout, Height and Visual Impact
- Traffic and Transportation
- Flood Risk
- Other Issues

- Appropriate Assessment

7.2. Principle of Proposal and Compliance with Policy

- 7.2.1. The appeal site is a brownfield site located within the Rosebank Retail Park c.1km from Carrick on Shannon town centre. The site is primarily zoned for “Commercial Town Expansion” purposes within the Carrick on Shannon Local Area Plan under which the use restaurants are listed as “acceptable in principle” and fast food take away are listed as “open for consideration”. The proposed development is in accordance with the zoning objective pertaining to the site in this context.
- 7.2.2. The principle of a drive thru restaurant and petrol filling station was previously accepted at this location by Leitrim County Council and An Bord Pleanala under PA Ref: 11/267, ABP Ref. PL12.240704. The duration of this permission was extended to January 2023 under PA Ref 17/40.
- 7.2.3. The principle of the location of the proposal is raised within the grounds of appeal in the context of its location at an edge of centre retail park removed from Carrick on Shannon town centre, an overconcentration of drive thru restaurants in the area and the proximity of existing schools. I consider the points raised in turn as follows.

Impact on Vitality and Viability of Carrick on Shannon Town Centre

- 7.2.4. Concerns are raised within the appeal and observation in relation to the siting of the development at a location removed from Carrick on Shannon Town Centre and its potential impact on the vitality and viability of the town centre. The appeal refers to the policies and objectives of the Leitrim County Development Plan, Leitrim County Retail Strategy and the Carrick on Shannon LAP which support the consolidation of primacy of the town centre.
- 7.2.5. I refer to the guidance set out within the Retail Planning Guidelines (DoECLG April 2012) which advise that a ‘health check’ of town centre vitality and viability should look for diversity of uses as an indicator of a healthy town centre. Uses cited in the guidelines in this context include offices, shopping, commercial, leisure, cultural and entertainment, pubs, cafes, restaurant, hotels, educational uses and housing.
- 7.2.6. I have had regard to the policies and objectives of the Carrick on Shannon LAP and Leitrim CDP which support the primacy of town centres. However, I do not consider that the development represents a scale or format of development which would have

a detrimental impact on the vitality and viability of Carrick on Shannon town centre. Nor do I consider that Carrick on Shannon town centre displays signs of an unhealthy retail core. I note that the appeal site is located within an established Retail Park on a commercially zoned site. I furthermore note that the principle of a drive thru restaurant at this location was accepted by Leitrim County Council and An Bord Pleanála under PA Ref. 11/267, ABP Ref. PL12.240704.

Overconcentration of Drive Thru Restaurants in Retail Park

7.2.7. The appeal and observation refer to the former KFC premises within the retail park and outlines that the development of an additional facility of this nature within the area would represent an overconcentration of drive thru restaurants within the area. Reference is made of the vacant KFC restaurant within the Retail Park and the possibility of its reuse to accommodate the proposal. Concerns are raised in relation to long term vacancy within the retail park in this context.

7.2.8. In considering the grounds of appeal I note that the principle of a drive thru restaurant is established on the appeal site. and I see no evidence of significant vacancy within the retail park and I consider that the proposal will facilitate choice for customers of the retail park. In addition, on-site inspection I note that the former KFC premises was occupied by a restaurant use.

Location of Site relative to Schools

7.2.9. The grounds of appeal raise concern in relation to the location of the development relative to its proximity to existing schools in the area (i.e. c. 400m of the nearest secondary school). The guidance set out within the 2013 Local Area Plan Guidelines for Planning Authorities is cited in this regard which acknowledges the important role that planning has in the promotion of active, health living patterns. The appeal outlines that the Carrick on Shannon LAP predates these policy changes.

7.2.10. The siting of the proposal relative to existing schools was raised within Item no. 1 of Leitrim County Council's request for further information. The applicant's response provides a justification for the location of the development on the basis of the zoning of the site and the lack of any provisions within the Leitrim County Development Plan in relation to the location of takeaways relative to existing schools. The applicant outlines that the issue of proximity to schools is not relevant to the Development Management process if there is no relevant policy in the Development Plan.

7.2.11. I note that there are no policies and objectives in relation to the siting of takeaways in proximity to existing schools within the existing Leitrim County Development Plan 2015-2021 or the Carrick on Shannon Local Area Plan 2010-2019. While I note that the Carrick on Shannon LAP predates the publication of the 2013 Guidelines, the Leitrim County Development Plan was adopted after the publication of the guidelines.

7.2.12. The site is zoned for “commercial town expansion” purposes under which the proposed restaurant use is “acceptable in principle”. I furthermore note that there is an existing choice of restaurant/café uses within the retail park and do not consider that the proposal will result in an overconcentration of takeaway uses at this location.

Hours of Operation

7.2.13. The appeal raises concern in respect of the proposed 24 hour operation of the proposal in the context of its potential impact on the amenity of the area. The appeal refers to the guidance set out within Section 3.03.04 of the Carrick on Shannon LAP which outlines that takeaway’s may have a condition obliging them to close by 1am. I note that no such condition was imposed by Leitrim County Council and the application documentation outlines that it is proposed to operate the facility on a 24 hour basis.

7.2.14. In considering the guidance set out within the LAP I consider that the issue of impact on residential amenity does not arise in the context of the appeal site. The site is bounded by the N4 to the north and by other commercial premises to the east, west and south. There is no potential for impact on residential amenity on this basis. I furthermore do not consider that the 24 hour operation of the facility would impact on the amenity of existing commercial uses within the retail park. I conclude that restrictions on opening hours are not required in the interests of the proper planning and sustainable development of the area.

Conclusion

7.2.15. In conclusion, I consider that the principle of the location of the proposed development on brownfield lands zoned for commercial purposes within an existing retail park is acceptable at this location subject to consideration of design, access and flood risk considerations. These are addressed in the following sections of this report.

7.3. Design, Layout, Height and Visual Impact

- 7.3.1. The proposed development comprises the construction of a 2 storey drive thru restaurant with a maximum height of 8.945m (parapet level) and a gross floor area of 418 sq.m. Access to the drive thru is proposed via the internal access road to the south and the development includes 31 no. car parking spaces along the site's southern boundary. The proposed restaurant is located in the eastern portion of the site with the main entrance provided to the south-west. No development is proposed within the northern portion of the site which is zoned for open space purposes.
- 7.3.2. The application documentation outlines that the layout of the proposal and siting of the restaurant responds to existing site development constraints including the open space zoning pertaining to part of the lands and flood zones. I note that the layout of a drive thru restaurant to some degree, is constrained by the need to facilitate the movement of vehicles at particular points. I consider the layout of the proposal and siting of the restaurant within the site is acceptable. The location of the main entrance to the south-west enhances to addresses existing uses within the retail park.
- 7.3.3. Concerns in relation to the design, height and visual impact of the proposal are raised within the appeal and observation. The observation outlines that the restaurant and associated signage will give a poor impression at the entrance to Carrick on Shannon and the appeal outlines that the proposed height is out of scale with buildings in the vicinity particularly to the east.
- 7.3.4. The appeal site is located within an existing retail park which accommodates a mix of retail and commercial uses and associated car parking. The site is located along the N4, a main entrance road to Carrick on Shannon town centre. The site is currently undeveloped and in parts overgrown and currently does not add to the visual amenity of the area.
- 7.3.5. The proposal has a maximum height of 8.945 m (parapet level) and a roof level height of 7.495m. On review of the proposed contextual elevations (drawing no. 11545- AEW-7143-0026) I note that while this represents a minor increase in height from the immediate site context, I do not consider the proposed height to be excessive. The principle of a 2 storey height is established elsewhere in the Retail

Park. I furthermore note that no disamenity impacts associated with the height of the development arise in the context of the proposal.

- 7.3.6. The proposed building elevations are clad in a mix of dark grey engineered brick, wooden panels and glazed entrance doors. I consider that the proposed material pallett is acceptable at this location. The development includes wall mounted branded signage along all building elevations. I consider the proposed signage to be in accordance with the guidance set out within Section 3.05 of the Carrick on Shannon LAP. I do not consider the signage proposals to be excessive or to impact on the visual amenity of the area.
- 7.3.7. I refer to the concerns raised within the observation on the appeal in relation to the visual impact of the proposal along the main entrance to Carrick on Shannon town centre. In this regard I refer to the CGI's submitted in support of the application which illustrate views from the proposal from viewpoints east and west along the N4. On review of the CGI's and submitted elevations I do not consider that the proposal would have a negative visual impact when viewed from the adjoining road network.
- 7.3.8. In conclusion, I consider that the proposed layout, design and height of the proposed development is acceptable and do not consider that the proposal would have a negative impact on the visual amenities of the area. I furthermore note that no concerns are raised by Leitrim County Council in relation to the height, design and layout of the development. I consider that the development of an existing underutilised brownfield site within an existing retail park will enhance the overall visual amenities of the area.

7.4. Traffic and Transportation

- 7.4.1. A range of traffic and transportation related concerns are raised within the third party appeal and observation on the appeal. Concerns are raised in relation to the accessibility of the site, traffic impact and associated safety aspects of the development. It is stated that these have not been appropriately addressed within the application documentation.
- 7.4.2. The appeal outlines that there is considerable risk that the development will lead to adverse operational and road safety issues on the Retail Park service road, at the N4 Dublin Road/Retail Park roundabout and on the wider N4 corridor. Reference is

made to the submission on file from Transport Infrastructure Ireland and it is stated that the issues raised remain largely unresolved. The third party appeal is accompanied by a technical report prepared by Martin Peters Associates Consulting Engineers. I consider the issues raised in turn as follows.

Traffic Impact and Impact on the N4

- 7.4.3. The appeal and observation on the file raise concern in relation to traffic impact associated with the proposed development and associated overspill onto the N4. Such concerns are raised within the submissions on file from Transport Infrastructure Ireland and the appellant outlines that the issues raised remain unresolved. The appeal includes reference to the planning history of the site wherein planning permission was refused for development on site on grounds including traffic impact. I refer to the requirement of Policy 5.1c of the Carrick on Shannon Local Area Plan 2010-2019 in this regard which outlines that: *“It is the policy of the Council to protect the safety, carrying capacity and efficiency of the existing (and future) N4”*.
- 7.4.4. Traffic Impact associated with the development is addressed within the Traffic and Transport Assessment prepared by AECOM submitted in support of the application. Section 4 of the TTA addresses the issue of Trip Generation and Distribution. The traffic survey undertaken to inform the TTA identifies that the AM and PM peak hours for the development occur between 08.30-09.30 and 15.30-16.30. The TTA assumes that the development will attract 39 arrivals and 38 departures during the AM peak and 39 arrivals and 36 departures during the PM peak. Section 5 of the TTA includes an assessment of the impact of the proposal on the N4/ Shopping Centre roundabout. The results conclude that the development will not result on in a material impact on the adjoining road network in terms of capacity.
- 7.4.5. On foot of the concerns raised within TII’s submission on the application the issue of potential impact of the proposal on queuing on the N4 was raised within Leitrim County Council’s request for further information. This is addressed within the RFI response prepared by AECOM. The response includes a micro simulation model which assesses journey times and queue length during peak periods of the proposed development.
- 7.4.6. The FI response details that the drive thru can allow a queue of 30m before it impacts on vehicles turning into the car park and 55m before blocking the Retail Park

Road network. No queues greater than 3m were observed during the peak hour period are identified within the model. The applicant's assessment concludes that the development would operate without queues impacting on N4 traffic and the proposal would not impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.

7.4.7. A number of the underlying assumptions within the TTA and microsimulation model are questioned within the appeal. Data sources for the operation of the development are also questioned within the submission of the FI response from Transport Infrastructure Ireland. It is stated that the identified AM and PM peak hours are incorrect, the projected number of trips to the development are underestimated and microsimulation model overestimates road widths. Furthermore, it is stated that the cumulative impact of the operation of 2 no. drive thru facilities within the Retail Park has not been addressed by the applicant. The appeal outlines that the proposal will lead to serious congestion on the N4 during the main late afternoon and evening peak 4.30pm – 7.30pm.

7.4.8. On review of the submitted documentation, I consider that the applicant has provided sufficient justification for the proposed peak hours on the basis of the existing and established operations of similar facilities. I do consider that peak hour trips appear low but consider that a high proportion of trips would be associated with linked trips with existing uses within the retail park. In terms of cumulative impact associated with the vacant KFC premises, I note that this premises is occupied. On-site inspection I did not observe any significant queuing on the N4 from the retail park. I also note the long term objectives of Leitrim County Council to provide a bypass for Carrick on Shannon.

7.4.9. On the basis of the information submitted in conjunction with the application and appeal, I do not consider that the proposal represents a scale or format of development which would result in traffic impact on the adjoining national road network. Having regard to the following:

- The site inspection I carried out which during which no delays on the roundabout to the retail park on the N4,
- the material submitted with the application,

- the zoning provisions relating to the site and the history of permitted development on the site,
- the layout of the development and separation distance between the proposed access and the N4 roundabout,

I do not consider that the proposed development will give rise to queuing either within the Retail Park or on the adjoining national road or endanger public safety by reason of traffic hazard. I do not consider the proposal to be contrary to the requirements of Policy 5.1c of the Carrick on Shannon LAP on this basis.

Proposed Access Arrangements & Connectivity

- 7.4.10. Vehicular and pedestrian access to the site is proposed to the south of the site via the existing internal retail park road network. An additional pedestrian access is proposed from the northern boundary of the site from the N4. The principle of access to the existing retail park from the N4/Retail Park roundabout is established. The N4 operates at a speed limit of 50km/ph in the vicinity of the site.
- 7.4.11. The internal retail park road network operates at a speed limit of 30km/ph. Visibility splays of 23m at the proposed site entrance are achieved in accordance with the requirements of DMURS as illustrated within drawing no. DR-CE-10-0101. The internal roads within the site are 6m to facilitate 2 way traffic movements.
- 7.4.12. A number of concerns are raised in relation to the internal road layout of the development within the grounds of appeal. Issues raised include the lack of safe pedestrian crossing facilities linking the site to the remaining uses within the retail park, service/delivery vehicle turning movements and light overspill from headlights from cars using the drive thru on the N4.
- 7.4.13. At the outset, I note that the principle of a service station and drive thru restaurant is established at this location under ABP Ref PL12.240704. I have reviewed the permitted site layout and note that the development as permitted included improvement works to the N4, a roundabout at the proposed site access and included conditions in relation to pedestrian linkages between the site and wider retail park lands. Such works are not proposed as part of the subject application, but I note that the permitted uses on site would attract more vehicular movements.

- 7.4.14. On review of the proposed site layout, I consider that the internal road network has been designed to negate against overspill onto the adjoining road network. However, I accept the points raised by Leitrim County Council that there is a requirement for improvements to accommodate the development including an enhanced pedestrian connections between the site and the existing uses within the retail park.
- 7.4.15. A Stage 1 Road Safety Audit was submitted in response to Leitrim County Council's request for further information which identifies recommendations in order to improve the safety of the scheme for users. I refer to the requirements of Condition no. 3 of Leitrim County Council's notification of decision to grant permission for the development which relates to the provision of a pedestrian crossing between the site and the Woodies car park, provision of yellow boxes at the proposed site entrance and entrance to Woodies and provision of a Stage 2 and Stage 3 Road Safety Audit. I recommend a condition relating to improvement works and a Stage 2 and Stage 3 Road Safety Audit in the instance that the Board is minded to grant permission for the development.
- 7.4.16. Drawing no PR447822-ACM-00-00-DR-CE-10-0001 illustrates the proposed swept path of delivery vehicles within the site. I consider that the internal road network has been designed to accommodate delivery vehicles. The TTA outlines that deliveries will be arranged outside of the am and pm peak hours in order to negate against queuing within the site. I consider that boundary treatment along the northern site boundary is sufficient to address any overspill of light from vehicles onto the N4 and I furthermore note that this issue was not raised within the Stage 1 Road Safety Audit submitted in support of the application.
- 7.4.17. In conclusion, I consider that the internal road network in the site has been designed to negate against overspill onto the adjoining road network. Opportunities for the enhancement of pedestrian connectivity between the site and the wider retail park uses can be addressed by means of condition.

Car Parking

- 7.4.18. 31 no. car parking spaces are proposed to serve the development, inclusive of 2 no. mobility impaired spaces and 3 no. EV parking spaces. The appeal outlines that the proposed parking provision is insufficient to serve the development. A justification for the proposed car parking provision was set out within the applicant's response to the

request for further information on the basis of the Development Plan requirements and site development constraints. The applicant's FI response furthermore outlines that a maximum of 23 no. car parking spaces would be required based on the AM and PM peak assumptions.

7.4.19. I note that car parking is provided on site in accordance with Development Plan requirements and further consider that there is sufficient parking within the overall retail park to accommodate any potential overspill. I refer to Table 4.4 of the applicants TTA includes an assessment of car parking demand within the Retail Park associated with existing uses. This illustrates that the car park has a maximum occupancy of 42%. I also consider the potential for linked trips between existing operators within the retail park and the proposed restaurant would occur. In this regard I consider that sufficient car parking is provided to cater for the proposal.

7.5. Flood Risk

7.5.1. Concerns relating to flood risk are raised within the grounds of appeal. The appeal outlines that site is located 400m from the boundary of the River Shannon in an area of land between the River and the N4 motorway which has been prone to flooding. The zoning objective pertaining to the site within the Carrick on Shannon LAP is questioned on the basis of flood risk and it is stated that the proposal cannot be considered of significant strategic importance as referred to under Section 2.13 of the LAP. Reference is made to the planning history pertaining to the site wherein planning permission was refused for development on grounds including flood risk. I consider the points raised in turn as follows.

7.5.2. A Flood Risk Assessment prepared by AECOM is submitted in support of the application. This provides an overview of the site characteristics and details that site levels vary from 40.74mOD to 42.98mOD. The FRA identifies that the potential sources of flooding associated with the development are fluvial and pluvial/surface water. No risk of coastal flooding is identified on the basis of the location of the site c.50km inland.

Fluvial Flooding

- I refer to the extract from the OPW CFRAM study in the attached presentation document. This identifies the site within Flood Zones A, B and C.

Pluvial Flooding

- The applicant's FRA identifies that the proposal includes a separate surface water drainage network to collect run off generated within the site. This system will collect rainfall generated run-off within the site and convey flows through the proposed network.
- The FRA outlines that it is proposed to restrict surface water run off associated with the proposed development to greenfield run off rates by providing a hydro brake control system and attenuation tank within the drainage network. As a result, it is stated that there will not be an increase in run off from the site.

- 7.5.3. Section 4.2 of the applicant's Flood Risk Assessment identifies that the primary flood risk is associated with fluvial flooding. Figure 4.1 of the FRA identifies Contours of Site Levels and identifies flood risk zones in this context. On review of the application drawings, I consider that the flood zones have informed the site layout. The applicant's FRA identifies that the restaurant is proposed outside the 1:100 year flood extent area. A portion of the proposed parking is proposed on the 1:100 year flood event and the remainder is proposed as open space.
- 7.5.4. The development does not include proposals to raise ground levels and in this context, there is no increase in flood risk. The main access road to the development is located outside of the flood Zone A area. I refer to the requirements of Policy 13.4c of the Carrick on Shannon LAP which outlines that the minimum required finished floor level is 43.365mOD and the finished ground level is 42.815mOD Malin. The proposed restaurant is in accordance with the required finished floor level.
- 7.5.5. Section 5 of the Flood Risk Assessment addresses compliance of the proposal with the guidance set out within the Flood Risk Management Guidelines. The proposal would be classified as a "less vulnerable development" in accordance with the classifications set out in Table 3.1 of the Flood Risk Management Guidelines. The proposed restaurant is located on Flood Zones B and C under which such development is categorised as appropriate. Car parking associated with the proposed development is located in Flood Zone A.
- 7.5.6. Section 5.3 of the applicants FRA addresses the compliance of the development with the criteria set out within Box 5.1 Justification test for Development Management as

set out within the Flood Risk Management Guidelines. I consider that the proposal meets the requirements of these guidelines having regard to its location on zoned lands within the Carrick on Shannon LAP and the proposed FFL of the building at 43.365mOD which is 700mm above the predicted water level of 1:1000 year event. In terms of the appellants reference to the zoning status of the site I note that the site is a brownfield site within an existing retail park. The principle of development of the site has also previously been established. I furthermore note that no objection is raised by the planning authority to the proposal on flood risk grounds.

7.5.7. In conclusion, having regard to the existing and proposed site levels and the information submitted in conjunction with the application and appeal, I consider that the applicant has demonstrated that the risk of flooding to the proposed development is low and will not exacerbate flood levels within the site or surrounding area.

7.6. **Other Issues**

Ecology

7.6.1. A Preliminary Ecological Appraisal prepared by AECOM is submitted in conjunction with the application. This identifies the site characteristics as species poor, unmanaged grassland. A shallow drainage ditch is identified along the N4 and the north-western boundary of the proposed development site.

7.6.2. The ecological report outlines that the site has negligible ecological value as foraging and breeding habitat to various species due to its urban nature, frequent disturbance from traffic and pedestrians, artificial lighting and small area. The assessment outlines that there are no Annex I habitats or protected plant species on site. Habitats within the site are of low ecological value.

7.6.3. The report identifies that existing invasive non-native species identified on site include Japanese knotweed. A Knotweed Management Plan is submitted in conjunction with the application. Table 5.1 of the report identifies management options for dealing with the species. A management plan is recommended to prescribe appropriate control measures to eradicate and prevent the spread of the species. I refer to the requirements of Condition no. 11 of Leitrim County Council's notification of decision to grant permission for the development which outlines that the treatment of Japanese Knotweed on site shall be carried out in accordance with the Japanese Knotweed Management Plan. I consider the requirements of this

condition to be appropriate in the instance that permission is granted for the development.

Carbon Emissions

- 7.6.4. The observation on the appeal raises concern in relation to increased carbon emissions associated with the proposed drive thru use. However, in this regard I would note that the site is located within an existing retail park where there are opportunities for linked trips with existing uses, the site is served by pedestrian and cycle connections and the proposal includes designated EV parking spaces. I consider that the proposed use would generate more less carbon emissions than previously permitted uses on site.

7.7. **Appropriate Assessment**

7.7.1. Compliance with Article 6(3) of the Habitats Directive

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.

An Appropriate Assessment Screening Report prepared by Moore Group-Environmental Services is submitted in support of the application. The application is also accompanied by a Preliminary Ecological Assessment prepared by AECOM and Knotweed Management Plan. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

- Section 3 provides a Description of the Proposed Development
- Section 4 provides an Identification of Natura 2000 Sites
- Section 5 provides an Identification of Potential Impacts and Assessment of Significance

The applicant's AA Screening Assessment concludes that:

"It can be excluded, on the basis of objective information, that the proposed development, individually or in combination with other plans or projects, will have a significant impact on a European site. It is the view of Moore Group Environmental

Services that it is not necessary to undertaken any further stage of the Appropriate Assessment process”.

Having reviewed the documents and submissions on the case, I am satisfied that the information provides a reasonable basis for the examination and identification of potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.7.2. Screening for Appropriate Assessment

The proposed development is located within Rosebank Retail Park, Carrick on Shannon, Co. Leitrim. An existing drainage ditch runs along the northern boundary of the appeal site. This drainage ditch is hydrologically linked to the River Shannon via the Attifinlay Stream during times of flooding and heavy rainfall.

The applicant’s Screening for Appropriate Assessment identifies that no Natura 2000 sites are located within a 15km range of the appeal site. The AA Screening identifies that the closest European sites are located over 30km downstream of the project and include the Lough Forbes Complex SAC (Site Code 001818) and the Ballykenny-Fisherstown Bog SPA (Site Code 004101).

I note that the above sites are the closest Natura 2000 sites to the appeal site but consider that the distances cited in the applicants AA Screening at 30km are overestimated. I calculate the distance to these sites to be closer to 20km.

I am satisfied that the potential for impacts Natura 2000 sites further downstream on the Shannon can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development and the nature of intervening development.

Proposed Development

The development site is described in Section 3 of the applicants Screening Statement for Appropriate Assessment. The proposed development comprises the construction of a restaurant and ancillary drive thru, car parking, landscaping and all associated site development works. The Screening Statement outlines that surface water proposals include connection to the existing sewer to the south of the site.

Submissions and Observations

Concerns are raised within the appeal in relation to contamination of the River Shannon which is a designated SAC downstream of the site. The applicant's response to the grounds of appeal outlines that run off generated within the proposed development will be captured in a dedicated surface water network, attenuated within the site and released into the retail park surface water network at a restricted rate corresponding to an equivalent greenfield run off rate. Furthermore, all gullies will be provided with sumps to capture any silt or debris to ensure it doesn't enter the retail park surface water network.

The appeal response furthermore outlines that: *"The drainage features identified are SuDS features and are standard to any development regardless of connection with a European site. The determination remains unchanged in terms of source-pathway-receptor model and in this way, there are no direct pathways to the River Shannon and any hydrologically linked European sites are located such a distance downstream that potential significant effects are highly unlikely"*.

7.7.3. European Sites

The appeal site is not located within or within 15km of any designated Natura 2000 site. The AA Screening identifies that the closest European sites are located over 30km downstream of the project and include the Lough Forbes Complex SAC (Site Code 001818) and the Ballykenny-Fisherstown Bog SPA (Site Code 004101).

The qualifying interests for the closest designated sites is identified in Table 1 below.

| European Site Site Code | List of Qualifying interest /Special conservation Interest | Distance from proposed development (Km) | Connections (source, pathway receptor) | Considered further in screening Y/N |
|--|--|--|---|--|
| Lough Forbes Complex SAC Site Code 001818 | Natural eutrophic lakes with Magnopotamion or Hydrocharition-type vegetation, Active raised bogs, Degraded raised bogs still capable of natural regeneration, Depressions on peat substrates of the Rhynchosporion and | 21km | Hydrological connection via the Upper River Shannon | Y |

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|--|--|------|---|---|
| | Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> | | | |
| Ballykenny-Fisherstown Bog SPA Site Code: 004101 | Greenland White-fronted Goose | 21km | Hydrological connection via the Upper River Shannon | Y |

7.7.4. Identification of likely effects

Section 5 of the applicants Screening assessment relates to the identification of potential impacts and assessment of significance. At the outset I note that development will not be carried out within any designated SAC or SPA site, lead to habitat loss, land-take or fragmentation of habitats. Furthermore, there will be no interference with boundaries of any designated area.

The applicant's assessment concludes the following in respect of potential impacts:

“Given the nature and scale of the proposed works, including site specific SuDS measures, adverse effects on the River Shannon and associated European sites, or any other European sites, are highly unlikely and significant adverse effects can be ruled out. Therefore, potential effects on European sites can be excluded at this preliminary screening stage”.

In this instance, I consider that the SUDS measures are standard measures for development of this format and for works in the vicinity of watercourses, similar to those set out, for example, in the IFI ‘Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters, 2016’. Such measures should therefore be utilised as a matter of good practice, given the presence of a nearby watercourse, regardless of the presence of a designated site downstream.

Moreover, I am satisfied that the measures, which are not site-specific, are not intended to avoid or reduce a potential significant effect on a European site.

Having regard to the nature and extent of the proposed development and its distance from designated Natura 2000 sites I consider that there are no individual elements of the proposed project that are likely to give rise to significant effects on the designated Natura 2000 sites downstream of the River Shannon.

Although a source-pathway-receptor linkage exists between the application site and the designated habitats of the Lough Forbes Complex SAC001818 and Ballykenny Fisherstown Bog SPA Site Code: 004101, given the scale of the proposed development, I consider the downstream distance of over 20km is sufficient to ensure that no impacts will arise.

Section 5.2 relates to and Assessment of Potential In-Combination effects. This identifies a number of planning applications granted in the vicinity of the site and concludes that there is no potential for in-combination effects due to the distance of removal from European sites.

I furthermore note that as there are no impacts to the SAC or SPA arising as a result of this development, there is no potential for cumulative impacts. There are no likely impacts arising from the proposed development on Natura 2000 sites and therefore cumulative impacts with other projects will not occur.

7.7.5. Screening Determination

The applicant's Screening conclusion outlines that:

"It can be excluded, on the basis of objective information, that the proposed development, individually or in combination with other plans or projects, will have a significant impact on a European site. It is the view of Moore Group Environmental Services that it is not necessary to undertake any further stage of the Appropriate Assessment process".

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 and projects would not be likely to give rise to significant effects on European sites Lough Forbes Complex SAC 001818, Ballykenny-Fisherstown Bog SPA Site Code: 004101 or any other European

site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore not required.

8.0 Recommendation

8.1. I recommend that permission is granted for the proposed development in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the zoning of the site for "Commercial Town Expansion" purposes within the Carrick on Shannon Local Area Plan 2010-2019, the location of the site within an existing Retail Park and the planning history on the site, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual amenity of the area, would be in accordance with the provisions of the Leitrim County Development Plan and the Carrick on Shannon Local Area Plan and would be acceptable in terms of traffic safety and convenience and flood risk and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by further plans and particulars received on the 3 rd of August 2021 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity. |
| 2. | Prior to the commencement of development, the developer shall liaise with Leitrim County Council to ascertain their requirements relating to traffic |

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| | <p>management improvement works including pedestrian crossing facilities to the adjoining road network to facilitate the development.</p> <p>A Stage 2 and Stage 3 Road Safety Audit shall be submitted to the planning authority for written agreement.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of orderly development and to ensure traffic safety.</p> |
| 3. | <p>No advertisement or advertisement structure other than those shown on the drawings submitted with the appeal shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity and to protect the residential amenities of the area.</p> |
| 4. | <p>The developer shall control odour emissions from the premises in accordance with measures including extract duct details which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of public health and to protect the amenities of the area.</p> |
| 5. | <p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following: -</p> <p>(a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;</p> <p>(b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;</p> |

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| | <p>(c) details of proposed street furniture, including bollards, lighting fixtures and seating;</p> <p>(d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.</p> <p>The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p> <p>Reason: In the interest of visual amenity.</p> |
| 6. | <p>The treatment of Japanese Knotweed on site shall be carried out in accordance with the Japanese Knotweed Management Plan submitted on the 5th of March 2021.</p> <p>Reason: In order to eradicate the presence of Japanese Knotweed on the site.</p> |
| 7. | <p>External lighting of the proposed development shall be in accordance with the details outlined in the “Public and Site Lighting Design Report” submitted on the 3rd of August 2021. All lighting shall be cowled and directed away from the roadway, surrounding properties and the River Shannon.</p> <p>Reason: In the interests of amenity and traffic safety.</p> |
| 8. | <p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> |

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| | <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p> |
| 9. | <p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area.</p> |
| 10. | <p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual amenity.</p> |
| 11. | <p>Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p> |
| 12. | <p>The applicant shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p> |
| 13. | <p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] [within each house plot] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> |

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| | Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment. |
| 14. | <p>The construction and demolition of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of work, noise and dust management measures, a Traffic Management Plan, details of disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and the amenities of the area.</p> |
| 15. | <p>The development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p> |
| 16. | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> |

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| | Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission. |
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Stephanie Farrington
Senior Planning Inspector

27th of April 2022