



Development

A new development within the Golden Island Shopping Centre carpark and landscaped areas in two separate locations as follows:

1. Site Area A, North West quadrant
– The development will consist of a new single storey pavilion drive through coffee shop (207 sq. metres). For the sale and consumption, on and off the premises of food and beverages, together with all necessary ancillary site works, including drainage, external seating, signage, landscaping, and the reconfiguration of existing carpark, to include proposed building, vehicle circulation route and collection point, all to be located in the existing car park.
2. Site Area B North East quadrant –
The relocation of 41 no. car spaces within the North East corner of the Golden Island Shopping Centre

carpark and landscape area. The proposal will also include the reconfiguration of existing pedestrian pathways and landscaping.

Location	North West Carpark, Golden Island, Golden Island (Kilmaine), Athlone, Co. Westmeath.
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	21/93
Applicant(s)	Int Inv (I) GP Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	Tony Diskin, Diskin Retail Park Ltd.
Observer(s)	None.
Date of Site Inspection	17 th February, 2022
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located to the south of Athlone town centre (and beyond the core retail area), approximately 230m south of Sean Costello Street, and forms part of the wider 'Golden Island Shopping Centre' complex which extends eastwards along the southern side of John Broderick Street between the riverside amenity area of Burgess Park and an existing warehouse park (Diskin Retail Park) bounded by Carrick O'Brien Road. The Golden Island Shopping Centre occupies a site of c. 7 No. hectares and offers a wide range of retailing with 'Tesco' being one of the main anchor units alongside Argos, Intersport Elverys, Primark, in addition to other retail services and an IMC Cinema. It is served by a substantial surface level car park (in excess of 1,000 No. spaces) which is predominantly situated to the north and west of the shopping centre with access available from several entrances via John Broderick Street.
- 1.2. The site itself has a stated site area of 0.107 hectares and comprises two separate parcels of land as follows:
- Site Area 'A' (Northwest quadrant): This is located within the north-western extent of the Golden Island car park and encompasses several aisles of car parking and an associated circulatory road. It occupies a prominent position proximate to the roundabout at the junction of Ceannt Road / John Broderick Street with Burgess Park a short distance away to the west.
 - Site Area 'B' (Northeast quadrant): This area is situated alongside an existing expanse of car parking and forms part of a small 'pocket park' / green space which provides a pedestrian linkage between the Golden Island Shopping Centre lands and John Broderick Street.

2.0 Proposed Development

- 2.1. The proposed development, as initially submitted to the Planning Authority, consists of the following:
- Site Area 'A' (Northwest quadrant): The construction of a single storey pavilion drive-through coffee shop (floor area: 207m²) for the sale and consumption, on and off the premises, of food and beverages, together with

all necessary ancillary site works, including drainage, external seating, signage, landscaping, and reconfiguration of the existing carpark (to include the proposed building, vehicular circulatory route and a collection point).

- Site Area 'B' (Northeast quadrant): The provision of 41 No. replacement car parking spaces (in substitution of those lost consequent on the construction of the coffee shop). The proposal also includes for the reconfiguration of the existing pedestrian pathways and landscaping.

2.2. In response to a request for further information, amended proposals were subsequently submitted to the Planning Authority which included the following changes:

- The omission of the drive-through element of the proposed development;
- The omission of the car parking previously proposed within Diskin Park (Site Area 'B' (Northeast quadrant)); and
- Revisions to the design and layout of the proposed coffee shop, including:
 - The raising of the site formation level to align with the perimeter pedestrian footpath.
 - The alteration of the building footprint with an associated reduction in floor area to 204.793m² and the reconfiguration of the interior space.
 - The modification of the external elevations to address the public realm with the primary entrance to the café located on an axis with the existing diagonal path through Burgess Park.
 - The provision of external seating terraces, cycle stands, and disabled parking bays (in lieu of the drive-through lane).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Following the receipt of a response to a request for further information, on 23rd September, 2021 the Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to 10 No. conditions. These

conditions are generally of a standardised format and relate to issues including servicing, signage, landscaping, construction management, and development contributions (with Condition No. 10 imposing a requirement to pay a special development contribution in the amount of €6,000 towards the improvement / enhancement of pedestrian linkages to Burgess Park and the provision of public lighting in the vicinity of the development).

3.2. **Planning Authority Reports**

3.2.1. *Planning Reports*

An initial report prepared by the case planner details the site context, planning history, and the applicable policy considerations, including the site location on lands which form part of a larger 'Opportunity Site' identified in the Athlone Joint Retail Strategy, 2019-2026. It states that the proposal fails to incorporate an appropriate mix and intensity of uses and, therefore, it amounts to the underutilisation of a strategic 'opportunity site' in a prominent town centre location and thus would not be conducive to the future growth of Athlone as a Regional Centre. Further concerns are raised as regards the car-dependent nature of the development, its siting and design, wider sustainability & climatic considerations, the potential impact on the retail core, and the possibility that the proposal would be premature pending the preparation of an overall masterplan for the lands at Golden Island. It is also stated that in the absence of a Stage 1 screening report for the purposes of appropriate assessment, the Planning Authority could not be satisfied that the proposed development would not give rise to significant adverse effects on the integrity of the River Shannon Callows Special Area of Conservation and / or the Middle Shannon Callows Special Protection Area. The report thus concludes by recommending a refusal of permission for the following 4 No. reasons:

- It is considered that the proposed development by virtue of its overall design, scale, layout and overall arrangement of the proposed built form fails to strengthen and positively enhance the public realm and existing urban grain at this prominent town centre location. The proposal will result in a low density, single use, car dependent form which does not positively engender a sense of place or promote healthy placemaking and represents a missed opportunity in recognising and strengthening Athlone's role, image, competitiveness and

function as a regional driver of economic growth and maximising the use of this key 'opportunity site' to ensure its compact growth and the efficient use of infrastructure and services. In this regard, to permit the development as proposed would result in further unconsolidated, piecemeal development of existing underutilised strategic lands which is contrary to National Policy Objective 11 of the NPF which sets out that *'in meeting urban development requirements, there will be a presumption in favor of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth'*. Moreover, the proposed development if permitted would be contrary to key priorities of the Regional Spatial and Economic Strategy for the Eastern and Midland Region, specifically in terms of its contribution to overall placemaking and regeneration of underused lands in the town centre, to facilitate population growth (RPO 4.8) and to strengthen the retail and commercial functions of Athlone as a regional centre. In this context, it is further considered that to permit the development as proposed would be contrary to Council policy *'to sustain and enhance the vitality and viability of town centres and where appropriate to consolidate urban areas'* and would be contrary to policy P-UD3 of the Athlone Town Development Plan which states that it is Council policy *'that new development positively contributes to a network of streets and places, in terms of positive additions to the streetscape'*. The development if permitted would therefore be contrary to the proper planning and sustainable development of the area.

- The proposed development by virtue of its design and form is considered to constitute a predominantly car-dependent use at this prominent location within Athlone. In this regard, to permit the development as proposed would be contrary to National Policy Objective 27 *'to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments'* and the National Policy Objective 64 which seeks to improve air quality through integrated land use and spatial planning, would contravene national policy on smarter travel and policy P-TR2 of the Athlone Town

Development Plan which references that it is Council policy to promote initiatives contained within '*Smarter Travel – A Sustainable Transport Future 2009-2020*' and would therefore be contrary to the proper planning and sustainable development of the area.

- The proposed development by virtue of its design and form at this town centre location would, if permitted, be contrary to national, regional and local policy objectives on climate action and achieving the transition to a competitive, low carbon, climate-resilient and environmentally sustainable economy by 2050. In this regard, to promote the development as proposed would constitute adhoc, piecemeal development which is contrary to National Planning Objective 54 of the National Planning Framework '*to reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions*', would be contrary to the Athlone Town Development Plan notably policy P-CC1 '*to support the implementation of the National Climate Change Strategy and to facilitate measures which seek to reduce emissions of greenhouse gases*', objective O-CC1 '*to adopt sustainable planning strategies through the integration of land use and transportation as a means of reducing greenhouse gas emissions*' and objective O-CC3 '*to promote and encourage new developments to mitigate against, and adapt to, where possible the impacts of climate change through the location, layout and design of development*' and would therefore be contrary to the proper planning and sustainable development of the area.
- The proposed development will result in the development of car parking within an established pocket park and on lands which are zoned 'open space' within the Athlone Town Development Plan. To permit the development as proposed would contravene zoning objective O-LZ8 which seeks '*to provide for, protect and improve the provision, attractiveness and accessibility of public open space and amenity areas which are intended for use for recreational or amenity purposes*', would be contrary to national policy on smarter travel and would therefore be contrary to the proper planning and sustainable development of the area.

However, a request for further information was issued on the instruction of the Director of Services which sought the omission of the proposed drive-through facility, various revisions to the design of the coffee shop, the omission of the car parking from those lands zoned as 'open space', and details of the hours of operation.

Following the receipt of a response to the request for further information, a subsequent planning report recommended a grant of permission, subject to conditions, on the basis that the amended scheme would contribute to the amenity of the area having regard to its proximity and connectivity to John Broderick Street, the Golden Island Shopping Centre, Burgess Town Park and the River Shannon, and as the scale of the proposal relative to the wider site would not prejudice the future development of the area.

3.2.2. *Other Technical Reports*

Chief Fire Officer: No objection, subject to conditions.

Area Engineer: An initial report noted that concerns had been raised as regards the appropriateness of a drive-through coffee shop at the location proposed. It proceeded to recommend that further information be sought as regards the submission of an amended layout highlighting the cyclist and pedestrian linkages between the development and the town centre & town park (taking account of desire lines) and ensuring the provision of adequate bicycle parking facilities.

Following the receipt of a response to a request for further information, a subsequent report indicated that there was no objection to the development and recommended the attachment of a series of conditions in the event of a grant of permission.

3.3. **Prescribed Bodies**

Irish Water: No objection, subject to conditions.

Health Service Executive / Environmental Health Officer: Recommends the submission of a Construction Management Plan before detailing a series of requirements with respect to refuse storage, the covering of any storage tanks, and connections to water services.

3.4. Third Party Observations

3.4.1. A total of 2 No. submissions were received from interested third parties and the principal grounds of objection / areas of concern contained therein can be summarised as follows:

- The inappropriateness of siting a drive-through coffee shop in the town centre, particularly given the prominent site location.
- The loss of car parking and the generation of additional car movements in a town centre environment where pedestrian and cyclists should be prioritised.
- The underutilisation of town centre lands.
- The design and scale of the proposal would detract from the surrounding streetscape and the character of the town centre.
- The failure to address / consider the issue of flood risk.
- The absence of a screening report for the purposes of appropriate assessment or a Natura Impact Statement.
- Concerns as regards the reduction of car parking spaces from within the Golden Island Shopping Centre complex.

4.0 Planning History

4.1. On Site:

PA Ref. No. 95/813403. Was granted on 22nd January, 1996 permitting Diskin, Tiernan, O' Callaghan permission for a shopping centre (floor area 15,826m²), 4 No. stores, 40 No. shop units, DIY, restaurant, take-away, malls, corridors, creche, management suite, toilets, plant rooms, boiler LPG bulk storage tank, sprinkler tank, a car park of 1,037 spaces, fencing, landscaping, drainage relocation works & site development works.

PA Ref. No. 97/813517. Was granted on 7th May, 1997 permitting Diskin, Tiernan, O'Callaghan permission for amendments to the approved plans for a shopping centre & associated facilities, comprising of: change of use from DIY store to multiplex cinema, including an additional floor area of 554m².

(For the purposes of clarity, the Board is advised that there is a further extensive planning history relating to the broader development / redevelopment of the wider Golden Island Shopping Centre).

4.2. **Other Relevant Files:**

PA Ref. No. 187243 / ABP Ref. No. ABP-304568-19. Was granted on appeal on 11th November, 2019 permitting Cinema Properties Limited permission for an extension and upgrading works to the existing cinema to include internal reconfiguration, the construction of 4 No. additional screens and new cinema entrance, local car parking, roadway and hard standing alterations, the relocation of 33 No. car parking spaces within the Golden Island Shopping Centre car park, and the construction of a new restaurant unit adjoining the extended cinema building. New cinema and restaurant signage. Demolition works as required to the existing cinema to facilitate the new extension. All associated site and development works. All at the Golden Island Shopping Centre, Athlone, Co. Westmeath.

PA Ref. No. 207040 / ABP Ref. No. ABP-307744-20. Was refused on appeal on 3rd February, 2021 refusing Tiane Ltd. permission for a commercial development comprising the demolition of an existing warehouse and the provision of 10,992m² of commercial floorspace arranged in 4 No. blocks (including a convenience supermarket with an off licence use, a café, 4 No. comparison (non-bulky) & convenience retail units, and 5 No. comparison bulky-use retail units) with ancillary services and site development works, on lands at the junction of the Golden Island and Carrick O'Brien Road, Golden Island (Kilmaine), Golden Island (Saint George), Athlone, Co. Westmeath.

- Having regard to:
 - a) the nature and scale of the development proposed, including the quantum of convenience and comparison floorspace and car parking,
 - b) the mixed-use zoning objective O-LZ3 for the site,
 - c) the location of the development, outside of the town centre and Opportunity Sites identified in the Athlone Joint Retail Strategy 2019-2026,

- d) the retail hierarchy as set out in the current Development Plan for the area, and
- e) the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April 2012,

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

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

5.0 Policy and Context

5.1. Development Plan

5.1.1. *Athlone Town Development Plan, 2014-2020:*

Land Use Zoning:

The proposed development site comprises two separate parcels of land which are zoned as follows:

- Site A (Northwest Quadrant): ‘Mixed Use’ with the stated land use zoning objective ‘O-LZ3: To provide for, protect and strengthen the vitality and viability of town centres, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services’.
- Site B (Northeast Quadrant): ‘Open Space’ with the stated land use zoning objective ‘O-LZ8: To provide for, protect and improve the provision, attractiveness, accessibility and amenity value of public open space and amenity areas’ (a small section of this site comprising part of an existing car park is zoned as ‘Mixed Use’).

Other Relevant Sections / Policies:

Chapter 4: Economic Development:

Section 4.19: General Retailing Policies & Objectives:

P-RET1: To protect and strengthen the retail primacy of Athlone within the region.

P-RET2: To promote retail development as a fundamental element and catalyst for the promotion and enhancement of broader town centre functions.
New development proposals shall respect the retail function of the core shopping area, contribute positively to the public realm and display high quality urban design and place-making attributes.

P-RET4: To sustain the vitality and viability of the major shopping areas and to encourage measures to improve their attractiveness.

P-RET5: To support the vitality and viability of existing designated retail centres and facilitate a competitive and healthy environment for the retailing industry into the future by ensuring that future growth in retail floor space is in keeping with the Retail hierarchy, as prescribed in the Retail Strategy.

Chapter 5: Town Centre & Urban Design:

To make Athlone town centre a more attractive destination where people will want to live, work, visit, shop and socialise with a diversity of uses and activities during the day and evening in a safe and inclusive environment.

Section 5.4: The Town Centre and Urban Design

Section 5.5: Urban Design Policies:

P-UD1: To adopt a design-led strategy in assessing the impact of development on the town centre, in accordance with Guidelines issued to Planning Authorities by the Department of Environment, Community and Local Government.

P-UD2: To require new development to positively contribute to a network of streets and spaces, in terms of positive additions to the streetscape, or by creating links through sites where opportunity exists.

P-UD3: To require applications for significant development in the town centre to be accompanied by Design Statements, including how the proposal contributes to the achievement of urban design principles as specified in the Development Management Standards.

Section 5.9: Variety and Mix of Uses:

A balance and mix of uses needs to be provided in the town centre to maintain its character and vibrancy. An appropriate range of shops needs to be present, including not only national and international retailers but local and independent retailers to provide choice, variety, distinctiveness and local identity. Mixed use developments within the town centre are required to attain sustainable development objectives, thereby creating opportunities to live, work, shop etc, within urban environments and reduce the propensity to travel by car.

Section 5.9.2: Commercial and Retail:

The main commercial streets in the town extend from Castlemaine Street to Connaught Street. The areas to the west and east of the Shannon have different commercial profiles. The west bank has become the preferred location for restaurants and the east bank accommodates the retail and office uses. The west bank area with its winding streets and proximity to the Quays tends to attract tourists

stopping off for food or to visit the Castle. The east side contains the convenience and comparison shops. It is considered a greater synergy should be aimed at both sides facilitating each other and to encourage people to linger for longer in the town centre.

Section 5.10: *Development Uses, Policies & Objectives:*

P-DU1: To encourage a mixture of uses in new developments within the town centre. The following mechanism will be applied:

- a) No less than two separate planning uses will normally be allowed (i.e. retail/residential or retail/offices etc.).
- b) Where more than two separate uses are proposed, no one singular use will prevail in terms of >50% of the total gross floorspace.

P-DU5: To encourage culture and entertainment uses within the town centre and other uses that support the evening economy.

O-DU2: To monitor change of uses and ensure the vitality and variety is maintained.

O-DU3: To undertake a health check of the town centre, identifying occupancy levels, variety of uses and the vitality of the town centre.

O-DU4: To introduce reduced car parking requirements for town centre areas in an effort to:

- Promote town centre development
- Reduce vehicular traffic
- Promote pedestrian and cycle movement
- Increase public transport use

Section 5.11: *Access and Connectivity in the Town*

Section 5.13: *Making the Town Centre a Distinctive Place*

Chapter 12: *Development Management Standards:*

Section 12.16: *Retail Development*

Section 12.21.2: *Car Parking Standards*

5.1.2. **Athlone Joint Retail Strategy, 2019-2026:**

Section 7.3.1: *Tier 1 – Centre of Athlone:*

Policy RP1: Tier 1 – Centre of Athlone:

It is the policy of the Councils to promote and encourage major enhancement and expansion of retail floorspace and regional centre functions in the centre of Athlone to reflect its role as a major Regional Centre and further develop its competitiveness and importance as a key centre in Roscommon and Westmeath and the West and Midland Regions.

Section 7.3.1.1: *Strategic:*

The priority is continuing to grow and enhance convenience and mainstream comparison shopping in the centre of Athlone. The nationally recognised profile of Athlone, through the combination of the Athlone Town Centre and Golden Island Shopping Centres has reinforced the strategic retail function/profile of Athlone in the shopping patterns in both Roscommon and Westmeath and their respective regions. It has been secured and sustained throughout the period of economic recession the country has faced. This performance and potential is required to be built on recognising that, due to the fine grain morphology of the Core Retail Area of Athlone, that this would be difficult to achieve in the Core Retail Area of Athlone.

However, through a suite of development opportunity sites, this can be redressed and underpin further growing Athlone's retail role, potential and profile within edge-of-centre sites in the Eastern Bank. These sites are identified in Map 4 of Appendix I (*N.B. These include 'Golden Island'*).

Section 7.3.1.2: *Integration & Public Realm:*

Although Athlone Town Centre and Golden Island Shopping Centre are the key retail locations in the core, there is little connectivity between them. As such, they serve as destination centres in their own right. A key strand in looking forward must be to overcome this to help strengthen the retail and commercial function and coherence of the centre. In addition, as part of the above equation, Golden Island Shopping Centre (and the adjacent mixed-use site) is a dated centre surrounded by extensive surface car parking and adjacent to a mix of poor condition retail, commercial and

industrial buildings, excluding the Aldi store, set in a generally degraded environment. Given the area's proximity to the Core Retail Area and its profile on the major amenity and tourism asset of the Shannon, it is a priority that there is strategic environmental enhancement and upgrading of the area.

RP6: To support the preparation of a strategic environmental masterplan for the Golden Island Shopping Centre and its immediate environs.

5.2. Natural Heritage Designations

5.2.1. The following natural heritage designations are in the vicinity of the proposed development site:

- The River Shannon Callows Special Area of Conservation (Site Code: 000216), approximately 190m southwest of the site.
- The Middle Shannon Callows Special Protection Area (Site Code: 004096), approximately 200m southwest of the site.
- The River Shannon Callows Proposed Natural Heritage Area (Site Code: 000216), approximately 220m west-southwest of the site.

5.3. EIA Screening

5.3.1. Having regard to the minor nature and scale of the development proposed, the site location in an established built-up area outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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

- Diskin Retail Park Ltd. and its shareholders retain an interest in the Golden Island Shopping Centre and the proposed reduction in the level of car parking presently available is of considerable concern.

The owners of the shopping centre have no legal right to reduce the car parking numbers without consent unless they can provide replacement spaces elsewhere.

- The location of the proposed café is entirely unsuitable.
- The proposal amounts to the underdevelopment of a high-profile site.
- Consideration should be given to the preparation of masterplan for the entire area in order to avoid piecemeal development.
- The size of the proposed building does not fit with the surrounding buildings and appears to be unsuited to the location.

6.2. Applicant Response

- The appeal is based on a claim that the owner of the property must obtain the consent of at least one of the appellants to make changes to the car park at the Golden Island Shopping Centre. The appellants have also claimed that they have an interest in the property in question.

Notwithstanding that both these claims are disputed by the owner, the grounds of appeal do not concern the merits of the planning application, nor do they raise issues of planning law. Accordingly, the appeal does not include any grounds on which the appellants may challenge the decision to grant permission.

These are commercial matters which are more properly addressed between the owner and the appellants directly.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- Land ownership / third party interests
- The principle of the proposed development
- Overall layout and urban design considerations
- Appropriate assessment
- Other issues

These are assessed as follows:

7.2. **Land Ownership / Third Party Interests:**

7.2.1. It has been asserted in the grounds of appeal that the appellant (Diskin Retail Park Ltd.) and its shareholders retain an (unspecified) interest in the Golden Island Shopping Centre and that the owners of the shopping centre have no legal right (without the necessary consent) to reduce the level of car parking within the complex unless they can provide replacement parking elsewhere. In response, the applicant has submitted that both these claims are disputed by the owner. Moreover, it has been suggested that as they do not concern the merits of the planning application, they are not valid grounds upon which the appellants may challenge the decision to grant permission.

- 7.2.2. From a review of the limited information available, while there would appear to be no dispute between the parties concerned as regards the applicant's stated ownership of the site(s) in question, there is clearly some level of disagreement as to the nature (if any) of the appellant's interest in the wider Golden Island Shopping Centre and, more specifically, the control / management of its parking arrangements, however, in the absence of any further details or other supporting evidence, I am not in a position to comment on the veracity of the appellant's claims. I
- 7.2.3. With respect to the broader merits of the suggestion that the proposed development will breach the terms of an undisclosed agreement between the parties in question (e.g. by contravening a restrictive covenant attached to the deeds of the property), it should be noted that it is not the function of the Board to adjudicate on such matters. The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property interests. It is not the function of the Board to adjudicate on property disputes and should a party consider that any grant of permission cannot be implemented because of legal or title issues, then Section 34(13) of Act is relevant.

7.3. **The Principle of the Proposed Development:**

- 7.3.1. The proposed development, as amended in response to the request for further information, consists of the construction of a coffee shop on lands zoned as '*Mixed Use*' with the stated land use zoning objective '*O-LZ3: To provide for, protect and strengthen the vitality and viability of town centres, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services*'. Section 13.2.2: '*Mixed Use*' of the Athlone Town Development Plan, 2014-2020 states that this land use zoning reflects the mix of uses which have always co-existed in town centres and that the vitality and viability of such areas is to be achieved by encouraging a mix of compatible uses in addition to ensuring the efficient use of infrastructure and services by mobilising the development of brownfield and underutilised lands where appropriate.

In this regard, I would suggest that overall nature and operation of the proposed coffee shop is likely to be comparable to that of a restaurant / café (i.e. the preparation and sale of food and beverages for consumption on and off the premises) and thus would be '*permitted in principle*' within this mixed-use / town centre location in accordance with the land use zoning matrix set out in Chapter 13: '*Land Use Zoning*' of the Development Plan.

- 7.3.2. With respect to the broader suitability of the site location for the use proposed, I am satisfied that the proposal will likely allow for synergy with the wider retail / commercial usage of this mixed-use / town centre area, including the Golden Island Shopping Centre, thereby resulting in shared trips and avoiding any overt reliance on the private car. This will be further achieved through the removal of the 'drive-through' element of the development (as per the amended proposal submitted in response to the request for further information) and the omission of the replacement car parking previously proposed at Site Area 'B'. In addition, the proximity of the proposal to Burgess Park and the design revisions incorporated into the amended proposal (with particular reference to the raising of the site level to align with the perimeter pedestrian footpath, the improvement of the external elevations in terms of addressing the public realm with the primary entrance located on an axis with the diagonal path through Burgess Park, and the provision of external seating terraces & cycle stands) will likely make a positive contribution to the continued and future usage of this riverside amenity.

7.4. **Overall Layout and Urban Design Considerations:**

- 7.4.1. The proposed development site occupies a prominent position at the junction of Ceannt Road / John Broderick Street and is also situated along an approach route to the Golden Island Shopping Centre (from the town centre) and at the entrance to Burgess Park. Therefore, given the site context, and noting the emphasis in the Town Development Plan on the need to improve the 'public realm' and to ensure a high quality of urban design, I would accept the desirability of seeking an appropriately high quality of architectural treatment at this location. However, while subject design is somewhat typical of comparable forms of development, I am amenable to the proposal as submitted. I am not of the opinion that the design is so discordant or visually incongruous as to be out of the character with the surrounding pattern of development or to warrant a refusal of permission.

7.4.2. With regard to concerns that the proposal could potentially compromise the future redevelopment of the wider Golden Island 'opportunity site' identified in the Athlone Joint Retail Strategy, 2019-2026, or otherwise prejudice the preparation of a strategic environmental masterplan for the Golden Island Shopping Centre and its immediate environs pursuant to Objective RP6 of that Strategy, while it would be preferable to maximise the development potential of the landbank, no such proposals have been submitted. It may be that the applicant is not in a position at this time to put forward more comprehensive redevelopment proposals for the overall site and that the intention is simply to redevelop the subject lands for a more beneficial use. In this regard, I am inclined to suggest that given the limited scale, nature and extent of the development proposed, and noting the general benefits arising from the proposed reuse of these underutilised lands, on balance, the subject proposal is acceptable and would not unduly militate against, or pose an insurmountable obstacle to, the future development of the wider landbank / opportunity site.

7.5. **Appropriate Assessment:**

7.5.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.6. **Other Issues:**

7.6.1. Having regard to the design and detailing of the amended proposal submitted in response to the request for further information, with specific reference to its relationship with the public realm and Burgess Park in particular (through the raising of the site level to align with the perimeter pedestrian footpath, the siting of the primary entrance to the unit on an axis with the diagonal path through the parkland, and the inclusion of external seating terraces & cycle stands), it would seem reasonable to anticipate an increase in pedestrian movements between the proposed development site and the riverside amenity area. Therefore, in the

interests of pedestrian and traffic safety, I would concur with the recommendation of the Area Engineer as regards the imposition of a special development contribution towards the improvement of public lighting in the vicinity of the development and the provision of pedestrian linkages to facilitate the development (i.e. an appropriate pedestrian crossing between the site and Burgess Park).

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission for the proposed development be granted for the reasons and considerations, and subject to the conditions, set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the site location on lands zoned as 'Mixed Use' proximate to Athlone Town Centre, the policies of the planning authority as set out in the Athlone Town Development Plan, 2014-2020 and the Westmeath County Development Plan, 2021-2027 for the area generally, the planning history and existing use of the site, the pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development at this location, would not have an adverse impact on the vitality and viability of the town centre, would not seriously injure the visual amenities or the character of the area, would be acceptable in terms of traffic safety and convenience, would not have significant adverse effects on the environment and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 16th day of August, 2021 and the 30th day 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. A grease trap shall be fitted on the kitchen drain to the satisfaction of the planning authority.

Reason: In the interest of public health.

3. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

4. Prior to commencement of development, details of the materials, colours and textures of all external finishes to the proposed development inclusive of fascia treatment and signage shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of visual amenity.

5. Details of all external signage on the building shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

6. Apart from the agreed signage referred to in condition 5 of this order, and notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and orderly development and to permit the planning authority to assess any such development through the statutory planning process.

7. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

8. The permitted premises shall be limited to use as a primary sit-down coffee shop with any sale of hot food or beverages for consumption off the premises to be subsidiary. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no change of use of the subject premises from the hereby permitted use as a coffee shop shall occur, unless authorised by a further grant of planning permission.

Reason: In the interest of clarity and to allow the planning authority to assess the impact of any subsequent change of use of the subject premises through the statutory planning process.

9. Details of the proposed hours of operation shall be agreed in writing with the planning authority prior to commencement of development.

Reason: To protect the amenities of surrounding properties.

10. Prior to commencement of development, details for the effective control of fumes and odours emanating from the premises shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of public health and to protect the amenities of the area.

11. A comprehensive landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

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

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

Reason: In the interest of visual amenity.

12. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

13. 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 waste, 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.

Reason: To provide for the appropriate management of waste, in the interest of protecting the environment.

14. The construction 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 noise management measures and off-site disposal of construction/demolition waste. In particular, the plan shall ensure that, during the construction phase, adequate off-carriageway parking facilities shall be

provided for all traffic associated with the development, including delivery and service vehicles/trucks, and parking for all construction workers.

Reason: In the interests of public safety and residential amenity.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

16. The developer shall pay the sum of €6,000 (six thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of the provision, improvement and enhancement of pedestrian linkages to Burgess Park and public lighting in the vicinity of the development. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Robert Speer
Planning Inspector

8th April, 2022