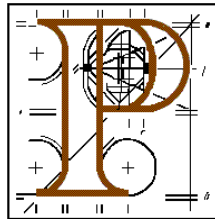


An Bord Pleanála

Inspector's Report



APPENDIX A

SUMMARY REPORT OF THE ORAL HEARING

References: ABP 313449-22

Development Proposal: Mixed Use development. Removal of bungalow and former stables and cart shed within the curtilage of Athenry House (Protected Structure), rehabilitation of Athenry House for use as a community / heritage centre, 59 residential units, 2 retail units, café discount food store and all associated works.

Appeal Site Location: Athenry, Co Galway.

Venue: Raheen Woods Hotel, Raheen, Athenry, Co Galway.

Dates: 18th October 2022

ATTENDEES

In Attendance:

FIRST PARTY Appellant / Applicant

Ghost Zapper Ltd

Mr Michael O Donnell, Barrister,

Mr Evan O Donnell, Barrister

Ms Grainne Loughnane Hadstone Solicitors

Mr Sean McCarthy, MKO Planning and Environmental Consultants

Mr Arthur Hickey, CCH

Mr Michael Geraghty, Tobin Consulting Engineers

Mr John Cronin, John Cronin & Associates

Mr Ross Bryant, JBA Consulting

Mr Alastair Ferrar, CSR

Ms Sarah Mullen MKO

LOCAL PLANNING AUTHORITY

Galway County Council

Mr John O Donnell Barrister

Ms Valerie Loughnane, Senior Planner, Galway County Council.

Mr Alan O Connell Senior Executive Planner, Galway County Council.

Ms Máirín Doddy, Architectural Conservation Officer, Galway County Council.

Mr Jack Houlihan, Senior Executive Engineer, Roads, Galway County Council.

OBSERVERS (in attendance during the course of the hearing)

Friends of Athenry House.

Mr Sean Monaghan.

James Roche – Consulting Engineer on behalf of Mrs Nora and Mr Sean Monaghan.

Mr Dominic Monaghan

18th October 2022

Opening of the Hearing – Inspector

Applicant's Submissions

- Statement of Evidence Mr Sean McCarthy MKO. Summary of Proposed Development, Submission of Additional Inputs (Daylight and Sunlight Assessment).
- Statement of Evidence Mr Arthur Hickey CCH Architects. Lands at Athenry House, Design Rationale.
- Statement of Evidence, Mr Michael Geraghty Tobin Consulting Engineers. Access and Development Configuration.
- Statement of Evidence of Mr John Cronin, John Cronin and Associates Architectural Heritage and Archaeology.
- Statement of Evidence Mr Ross Bryant, JBA Consulting, Flood Risk Overview and Mitigation.
- Statement of Evidence Mr Micheal Geraghty Tobin Consulting Engineers.
- Statement of Evidence Mr Alastair Ferrar, Cunnane Stratton Reynolds.
- Statement of Evidence Sarah Mullen MKO

Submission of the Planning Authority.

- Statement of Evidence of Mr. Alan O Connell, Senior Executive Planner, Galway County Council.

Observers Submissions

Cross Questioning

Closing Statements:

Closing Statement, The Planning Authority. Mr Alan O Connell

Closing Statement, The Applicant/ Appellant Mr Michael O Donnell.

Closing of Hearing by Inspector.

SUBMISSIONS AT ORAL HEARING

The following is a complete schedule of copies of prepared submissions to the Oral Hearing and other references given to the Inspector:

Applicant's Submissions

1. Statement of Evidence of Mr. Sean McCarthy, MKO. Summary of proposed development.
- 1b Submission of additional inputs (Daylight and Sunlight Assessment) IN2.
2. Statement of Evidence of Mr Arthur Hickey CCH. Architectural Design Lands at Athenry House, Design Rationale.
3. Statement of Evidence of Mr Michael Geraghty, Tobin Consulting Engineers. Access and Development Configuration Response.
4. Statement of Evidence of Mr John Cronin, John Cronin and Associates Conservation Architectural Heritage and Archaeological Overview.
5. Statement of Evidence Mr Ross Bryant, JBA Consulting, Flood Risk Overview and Mitigation.
6. Statement of Evidence Mr Micheal Geraghty Tobin Consulting Engineers. Overview of traffic parking and road safety.
7. Statement of Evidence Mr Alastair Ferrar, Overview of Arboricultural Context of site and tree removal proposals.
8. Statement of Evidence Ms Sarah Mullen, MKO. Overview of Ecological Context of the site.

Submission of the Planning Authority.

1. Statement of Evidence of Mr. Alan O Connell, Senior Executive Planner Galway County Council.
2. Extract (Page 16) from Architectural Heritage Protection Guidelines for Planning Authorities. Department of the Environment Heritage and Local Government. 2004.

SUMMARY OF PROCEEDINGS

All of the proceedings of the Oral Hearing are recorded and are available to the Board. What follows below is an outline of the proceedings and is not intended to be a written account of the entire proceedings. The outline is proposed to function as an aid. The assessment in my main report makes reference to the details submitted in evidence at the oral hearing. For a list of prepared texts and other submissions given to the Inspector at the Hearing see above. The following summary is not in chronological order.

APPLICANT'S SUBMISSION TO THE HEARING

In introduction and presenting the first party appeal grounds to the hearing, **Mr. Sean McCarthy, Senior Planner with MKO Planning and Environmental Consultants** provided an overview of the development and background to the application. Noted that the lands have been zoned since 2005 and were subject to a significant planning permission in 2006. The site has been lying dormant and completely underutilised since. The site brief sought to deliver an appropriate mixed use urban development of the site which would include the refurbishment and beneficial use of Athenry House. Following refusal of permission in 2020 the alterations in the current application include a 40% reduction in the number of commercial units and a significant reduction in scale. The proposed layout provides for the commercial element in the northern part of the site which will create a commercial synergy with town centre. The residential content comprising 59 units will contribute to the target of 800 units as outlined in the Core Strategy. The management of Athenry house will be undertaken by the management company which will manage the overall site. It was noted that Ghost Zapper Ltd is a subsidiary of the Comer Group who have extensive experience in dealing with sensitive conservation elements. The applicant is willing to engage with local stakeholders to ensure that the house becomes an asset to the local community. The policy context was noted and reasons for refusal briefly outlined. The amendments to design made at appeal stage were outlined including minor alterations to block 4, alterations to internal road layout to avoid encroachment into the 30m buffer zone for medieval town wall. The design and massing of blocks 11 and 12 sought to interplay on ridge height and soften the impact. Revised sunlight and daylight analysis was referenced and copies circulated to the parties.

Mr Ronan Woods, Planning Director, Ghost Zapper Comer Group spoke on the heritage context of the project. He noted that the Comer Group has extensive experience in heritage led restoration schemes including a number of notable Grade 1 listed buildings in the UK.

Mr. Arthur Hickey CCH Architects presented an outline of the design strategy and design rationale which is to develop the site and reinstate Athenry House as

a focal point for the town. The layout is informed by two key features, Athenry House and the river frontage to the Clarinbridge river and seeks to respect and accentuate its character. The approach is to create hierarchy of spaces, amenity trail and biodiverse corridor and creates a sense of place. Protected structure at the heart of the scheme. Scheme is responsive to site context and is in keeping with the character of the area. Road design and detail settle the site into its neighborhood. A possible layout for Athenry House is shown as a community centre with meeting rooms, hub for remote working, exhibition space. Mr Hickey reviewed Computer Generated Images and the overall vision.

Mr John Cronin, John Cronin and Associates presented further elaboration on architectural heritage impact assessment and cultural heritage impact by reference to extracts from historic maps and site photographs included as appendix to the brief of evidence. Mr Cronin reviewed the historic evolution of the site through review of cartographic sources with particular reference to the geometry and axial arrangement of the site and to the alterations to the Coach House over time. On the matter of exceptional circumstances, Mr Cronin asserted that the removal of the coach house is necessary to facilitate safe vehicular access to the site. While the removal of the coach house will result in loss of historic fabric (notably altered and ruinous), its removal is necessary and mitigated by enabling a high quality development that provides for conservation and sustainable appropriate presentation of other more significant elements of local heritage within a new network of enhanced amenities. It is noted that the outbuilding is not explicitly listed in the Record of Protected Structures. The guidelines recommend that the RPS should identify key elements 13.2.3 and 13.2.5.

Mr Cronin asserted that the loss of the outbuilding does not represent a significant loss of fabric of heritage value. The building is ruinous, much altered and truncated on its northern side. The loss must be seen in the context of the significant planning and conservation gain that will result from returning Athenry House back into use and the conservation of both the entrance gates and the dovecote.

Regarding archaeological matters and issues raised in the DAU submission on the application, only two peripheral areas of residual archaeological potential remain along the southern portion and around the line of the town wall. Footpaths will be floating comprising a lightweight intervention and will be archeologically monitored. A method statement for conservation works to Dovecote has been provided. There will be no direct impacts on the Town Wall - No conservation or repair works are proposed. Landscape proposals will be developed in consultation with DAU. The CEMP will be updated to list all archaeological architectural or cultural heritage constraints to the proposed development and all proposed mitigation measures.

Mr. Michael Geraghty, Tobin Consulting Engineers addressed traffic and transport elements. Road design is in accordance with DMURS. Final alignment

of the road sought to minimise impact on Athenry House and existing boundary walls. Visibility splays demonstrated for the neighboring site access. Site is designed as a low speed environment. Regarding mobility management, a workplace travel plan will be developed in relation to commercial use. On the issue of car parking a survey of the adjacent public car park concluded that it was significantly underutilised. The proposal involves the provision of 106 spaces for the commercial element where the development plan requirement would be 200. However it is considered that the provision of parking in accordance with this standard would be an overprovision. Based on the central location of the site, dual usage, spare capacity within the existing public car park and having regard to the negative impact a large car park would have within an architecturally important site. Analysis of the parking levels at similar Lidl stores based on TRICS data supports this case.

Mr Ross Bryant, JBA Consulting provided Flood Risk overview. As part of the CFRM the Clarin river was modelled. The detailed Flood Risk Assessment includes detailed hydraulic modelling which confirms that areas of the floodplain within the site are principally conveyance routes rather than static areas of storage. The floodplain has been influenced by previous excavations on the site. As the conveyance path is maintained in the post development scenario the same volume of flow is transferred downstream. The difference is 2 litres per second with a peak flow of 11,000 litres per second. There is no increase in flood level or extent outside the redline boundary in the post development condition and compensatory storage is not required. All development is appropriately raised above climate change flood level including 300mm freeboard for houses and 150mm freeboard for ground levels and the justification test passes. A further 54 m³ of floodplain volume can be provided if required.

The local authority planning report mis references the JBA report and is flawed and is not based on objective review. Flood volume is not perceptively changed downstream. The model extends 850m downstream of the site and is highly detailed. The default position on compensatory storage does not consider the findings of the FRA. The masterplanning of the site has applied the planning guidelines and avoided flood risk areas as far as possible. The site is zoned for commercial mixed use within the Athenry LAP. The actual encroachment of buildings within flood zone A/B is minimal where 85% of floodplain area is open space. The floodplain is maintained, and the conveyance route is maintained and there is no basis for refusal on the basis of flood risk.

Mr Alastair Ferrar, Associated Director Cunnane Stratton Reynolds presented an overview of the arboricultural context of the site and tree removal proposals. The approach to design sought to retain as many as possible and to appropriately balance competing constraints. Of the 18 existing trees on the site 10 are to be retained and 8 removed. (6 non-native and 2 ash). Proposed mitigation includes planting of 159 new trees with an emphasis on native trees

and a focus on ecological function. Regarding T4 and T13 referenced in refusal reason they are T4 sorbus latifolia (non native) and T13 Ash, both are isolated individual trees limiting ecological function. T13 is in decline due to ash dieback. Groupings of trees are prioritised for retention. Proposals enhance rather than diminish the site's long term ecological connectivity and function, biodiversity and visual amenity in its urban environmental context and character.

Sarah Mullen, MKO provided an assessment of the potential impacts on biodiversity and ecology and addressed refusal no 6 of the decision of Galway County Council. The environmental assessment methodology was outlined, and survey results detailed. Key ecological receptors with potential to be impacted by the proposal as identified within the EclA include trees and tree lines, the Clarin River, bats and otter. Prescribed mitigation is designed to prevent significant impacts on these receptors.

Article 6(1) Screening identified potential for likely significant effects on water quality within the Galway Bay Complex SAC and inner Galway Bay SPA. NIS outlines best practice pollution control measures which robustly block any potential for significant effects on any European Site. Range of SUDS measures for the treatment of water or surface run off prior to discharge to the Clarin River ensures no adverse effect on the integrity of any European site. Regarding refusal reason no 5 and loss of trees it is contended that the loss of these trees will not result in a significant loss of biodiversity or impairment of ecological connectivity to the wider landscape.

Mr O Donnell summarised the submissions on behalf of the first party noting consistency of the proposal with the development plan. The proposal opens up the river and has the protected structure as its central focus protecting and ensuring the long term viability of the house, gates and dovecote. The coach house to be demolished and bungalow are not identified within the record of protected structures. The proposal revitalises and extends the existing town centre providing appropriate adequate and not unduly dominant car parking. Tree loss is appropriately mitigated with no adverse impact on biodiversity. The scheme commended to the Board.

That concluded the evidence on behalf of Ghost Zapper Ltd.

PLANNING AUTHORITY SUBMISSIONS TO THE HEARING.

Mr John O Donnell, Barrister noted that the submissions of the Planning Authority to the hearing would be modified from the brief of evidence in light of the submissions of the First Party Appellant.

Mr. Alan O Connell, Senior Executive Planner, Galway County Council outlined the evidence of the Planning Authority noting that the Local Authority is supportive and anxious to progress the appropriate development of the site, however the proposal is not sufficiently responsive to the sensitivities of its context.

Regarding road alignment and the question of whether alternatives could be achieved within the site boundaries, the previous permission on the site granted by the Board in 2004 involved an alignment which provided for retention of house and coach house. It was noted that only two alternative options are modelled by the first party within the appeal document. Areas to the north and south of the coach house should be considered. Exceptional circumstances for demolition have not been met. Architectural Heritage Protection Guidelines. Section 6.8.11 refer to Exceptional circumstances requiring “the strongest of justifications”. The Council maintains that the coach house and Athenry House are protected structures. The bungalow does not have architectural heritage significance.

The structure is also within the Architectural Conservation Area and satisfactory evidence has not been provided to demonstrate that demolition is unavoidable.

No compelling justification has been provided. The precedent cited of Custom House Quay, Cork was examined and involves completely different circumstances which means that these cases are not directly comparable. Custom House Quay Cork is a city brownfield site on which a high density landmark building was proposed. The confined and restricted nature of the site gave rise to extreme limitations where the current site provides for alternative options.

Regarding reason No 2 and reference to Zoning the Planning Authority disagrees with the applicant’s contention that the zoning objective C2 rather than C1 should enable a departure to suburban design principles. Land use zoning refers to land use whereas the designation of the site within the ACA is the fundamental determinant for design standards. Objective HC3 of the LAP noted. On the matter of design of the food store, and contention that a precedent was set by permission on the adjoining site granted under 15/356 and extended 20/41,, these are not directly comparable sites with significant differences in scale, massing and area. The design solution on the adjoining site is a distinctive and bespoke design providing a new edge to the rear of Clarke Street with perimeter block typology reanimating a backland area of an existing urban block. The current proposal is an entirely different context. Preplanning discussions highlighted the need for urban development of a coarser grain with animated streets the preferred approach. Applicant was advised that point block typologies were considered discordant. Concerns were raised regarding preponderance of surface parking, and suburban rather than urban character. The redesign of the supermarket as an L shaped block with greater animation was advised.

Regarding redesign proposals to blocks 11 and 12 in the appeal the Local Authority considers that the revisions mitigate the overall massing of block 11 and 12 however reorientation of these blocks and integration into the open-ended block to the north thus more accurately reflecting perimeter block typologies of the

ACA would achieve a more sustainable urban placemaking outcome. In this configuration the southern end of the scheme would be defined by a street edge facing an area of open space which would animate, surveil, enclose and define an open space adjoining the 30m buffer zone and the town defenses thereby marking the significance of the walls and intervening space between new urban block and historic walls. It was suggested that this might be addressed by way of condition.

Noting the redesign of the southern road section and removal of turning head and access question residual encroachment on 30m buffer zone excavations for block 12 and extreme southern edge of revised roadway of concern.

The Planning Authority is satisfied that concerns regarding overlooking have been addressed. Redesign of block 4 addresses overlooking issues to the northern boundary. Regarding block 7 shortfall in setback from boundary is notable and many have to be compensated by an adjacent developer. Regarding flood risk the Planning Authority takes a precautionary approach to the implications of loss of upstream flood storage and increased conveyance of floodwaters downstream. FRA shows extensive downstream flooding in the past. (Fig 3.2 of FRA). 3.3 and 3.4 of FRA shows standing water during a flood event. Given the potential for some storage function applying the precautionary approach compensatory storage would be required on site and 54 m3 of compensatory storage should be provided. This could be addressed by condition.

Regarding road safety, the Planning Authority is satisfied that the issue resolved subject to Road Safety Audits 2, 3 and 4. On the issue of car parking and the shortfall of 87 spaces (70% of the required standard) substantiation is absent. No detailed analysis of potential for dual car usage, modal shift or reason for application of a flexible approach. Question whether survey of existing public car park is representative. Car park is known to be heavily frequented on match days. The new Aldi store could have a displacement effect on this car park. The feasibility of use by supermarket shoppers is questionable given the considerable distance from proposed supermarket to existing public car park.

Regarding tree removal. If the evidence regarding ash dieback can be substantiated and more mature trees could be provided to ensure a more immediate remediating effect the planning authority would be satisfied.

Regarding the future use of Athenry House the planning authority noted the need for clarity to secure a sustainable use for the site.

Ms Máirín Doddy. Architectural Conservation Officer, Galway County Council made reference to the Architectural Heritage Guidelines to clarify that where a structure is protected, the protected structure includes the land within the curtilage of the protected structure and other structures within that curtilage.

The Former Coach House is considered to be included within the curtilage of Athenry House. The bungalow is a mid 20th century building and does not meet the criteria of Special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. The coach house meets the criteria set out in the Granada convention and its removal would have a negative impact. The phasing of works would be required to ensure that works to the protected structure are completed in tandem with or prior to completion or occupation of new buildings. Exceptional circumstances for the demolition of the building have not been demonstrated.

Mr Jack Houlihan Roads SEE Galway County Council

Regarding refusal reason 4 Section 4.5.1 and engineering report provides response and technical drawings showing the requisite 23m sightlines for 30kph design speed and including the removal of the existing boundary wall to the satisfaction of the Roads Authority. In the event of permission, it is recommended that a Road Safety Audit 2, 3 and 4 be provided at the relevant stages of project delivery. Regarding alternative routes from a cursory overview it would appear that there are alternatives that would enable avoidance of the demolition of the coach house.

That concluded the evidence of the Planning Authority.

OBSERVERS.

Mr Dominic Monaghan observer requested that the parties ensure correct reference to the Athenry Town Walls.

James Roche, Consulting Engineer on behalf of Mrs Nora and Mr Sean Monaghan asserted that the third party observers support the views of Galway County Council in opposition to the proposal. Particular concerns arise regarding the impact of the development on the observers' adjoining farmlands. The Observers reiterated concerns that the concentration of social and affordable housing is inappropriate and it should be dispersed through the development. Would request liaison regarding walls and boundaries. Mr Roche noted reference within the Planner's report p118 and p119 of the Planning Report to the absence of agreement with regard to Part V.

CROSS QUESTIONING

Cross questioning of the applicant by the Planning Authority addressed a number of issues summarised as follows:

Mr John O Donnell barrister on behalf of the Planning Authority questioned Mr Bryant on the issue of flood risk. Mr O Donnell posed the question as to whether it would be prudent to adhere to the precautionary principle and provide 54m³ compensatory flood storage. Mr Bryant reiterated his position that areas within the site are principally conveyance routes rather than static areas of storage therefore compensatory storage is not required, however Mr Bryant confirmed that it is possible to provide an additional 54 m³ of compensatory storage in the south-east corner of the site.

Mr John O Donnell questioned Mr Michael Geraghty on the comparability of other Lidl car park capacity surveys and the likelihood of people travelling from the public car park with shopping trolleys given the considerable distance involved. The question was posed as to whether car parking could be provided underground. Mr Geraghty asserted that excavation of underground car park would have significant environmental / heritage impact and costings and that in any event would represent an overprovision for the site. In a discussion of heritage impact Mr Cronin asserted that construction impacts would have to be assessed however in his experience, underground parking in a town such as Athenry tends to be underutilised. He noted that as the site is archaeologically sterile therefore this would not be a barrier to undergrounding however there may be construction issues. Mr O Donnell questioned the adequacy of the parking survey and Mr Geraghty noted that additional surveys were taken at the public car park at the weekend Friday and Saturday and the findings of underutilisation were confirmed. Regarding excavations in the vicinity of the removed hammerhead, Mr Geraghty advised that this would involve 700mm excavation. Regarding road alignment other options were considered, however these would result in a winding road with no streetscape.

Mr John O Donnell questioned Mr Arthur Hickey in relation to the design, noting that concerns were raised at pre planning stage regarding the standardised nature of the design of the Lidl building and an L-shaped structure was recommended. Mr Hickey asserted that the scheme was specifically designed for this location. Different configurations were assessed and a supermarket building generally wouldn't work with an L shape. Mr O Donnell asserted that the proposed Lidl is the focal point of the site not Athenry House. Mr Hickey rejected this claim and asserted that the perception on site will be focused on Athenry House. The Lidl building, while large, is no higher than a two-storey house. The only perspective from which it will be perceived as such a large bulky building would be looking down from helicopter view. In discussion regarding alternative access to avoid the coach house demolition, Mr Hickey asserted that a road to

the south would involve a distance of 12m from Athenry House which would be detrimental to the setting of the house and potentially impact on the town walls. In discussion on access Mr Dominic Monaghan, observer, outlined concerns regarding evolution of road configuration. On the issue of removal of the hammerhead at the end of block 12 Mr Monaghan outlined concern regarding reversing cars on the road. Mr Geraghty asserted that a swept path analysis shows that the cars can reverse perpendicular to the road.

Questions from the applicant to the Planning Authority

Directed by Mr Michael O Donnell the various experts for the applicant sought to summarise position. Mr Hickey asserted that the design is tailored to address the sensitivities of the site. Lidl design is tailored to address the junction of main pedestrian and vehicular east west access. Mr Cronin welcomed the submissions of the planning authority to the hearing in terms of acceptance regarding archaeology and conservation works to Athenry House and method statement in respect of Dovecote. Mr Ferrar noted that included within the proposed landscaping of the site are 20 trees that are semi mature ranging between 3.4-4m in height.

Mr Michael O Donnell, in questions for Ms Doddy referred to the principles and characterisation of protected structures as per High Court Judgement Begley v An Bord Pleanála regarding Riversdale House Rathfarnham. Mr O Donnell summarised the findings of the High court in that case as follows that where there are a number of structures within a category and where each building is specifically referred to it is not intended that other buildings would be construed as protected structures.

Ms Doddy noted that the coach house is not identified in the RPS but is identified in the NIAH. Ms Doddy asserted that the outbuildings are so obviously part of the curtilage of the protected structure. Mr O Donnell noted that the NIAH would have been available when the plan was being made. Ms Doddy noted that a Section 57 declaration can clarify the general listing within the RPS.

Mr O Donnell noted that there is only circa 15% of the original coach house remaining. Ms Doddy noted that a pre-condition of previous permission was that the works to the protected structure would be carried out in the first phase and emphasised the concern to find a sustainable use. The use of the building and use of Dovecote should be integrated into the development to ensure that they contribute to its context. Ms Doddy noted that Heritage centres have issues of sustainability and funding and considered that multi-functional use into the future that is sustainable would be appropriate.

In questions for Mr O Connell, Mr O Donnell welcomed the positive comments regarding points of agreement. Mr O Connell asserted that there are fundamental issues which have not been addressed. There was a discussion on

the origins of the house built in 1780 and remodelled in 1820. Discussions on the status of the Coach house Mr O Connell asserted that while the coach house is not identified within the RPS given its location within the curtilage of Athenry House it is considered to be a protected structure and that the requirement in regard to exceptional circumstances refers to any structure within the ACA not just protected structures. There was further discussion regarding design. There was discussion on design and layout and question of whether the supermarket design is site specific or generic.

Further discussion on the design approach in relation to land use zoning and O Connell sought to clarify that objectives regulate design and layout. Mr Michael O Donnell noted that form follows function and therefore zoning is critical and integrally connected. Mr O Connell asserted that form should reflect function and asserted that there are other objectives within the plan which regulate design and layout. Mr O Connell asserted that the building will read as a point block rather than perimeter block. Site should function as an extension of the ACA. Further discussions on car parking, proximity to public car park.

Mr O Connell confirmed to Mr Michael O Donnell that the Local Area Plan expired 23 May 2022.

Mr Michael O Donnell questioned Mr Houlihan regarding various considerations in relation to road alignment. Mr O Donnell noted the range of factors to be considered. Mr Houlihan asserted that a road line could be achieved while avoiding coach house.

Inspector requested from the applicant elaboration on the issues raised in the submission of the observer Mr Monaghan in relation to social and affordable housing and boundary treatment. Mr Michael O Donnell noted the legal obligations regarding provision of social and affordable housing and Mr Hickey noted that the location of the proposed social and affordable housing units was as directed by the Housing Authority on the basis of their specific house type requirements. Mr O Connell noted preferences of the local authority with regard to own door access off the street.

As regards boundary treatment, stock-proof fencing would be provided as necessary to ensure no adverse impact on agricultural practices. Boundary wall to Riversdale House would be repaired where necessary and this would be carried out in phase 1 of the development.

Inspector requested the applicant to address the potential use and stakeholder engagement regarding future use of Athenry House. Has there been engagement to date or how would this take place. Mr Ronan Woods, Planning Director Comer Group asserted that the proposal to develop the house will be undertaken in phase 1. An in-situ management company will be responsible for day to day running. Athenry House will be available for use by the local community and the applicant is open to a condition in this regard.

Closing Statements

Mr John O Donnell on behalf of the Planning Authority in the closing statement on behalf of the planning authority, asserted that the Council appreciates the various matters addressed by the appellant however notwithstanding that certain matters have been addressed however 3 of the 6 reasons for refusal have not been resolved.

The Coach house which is clearly is within the curtilage of the main building and could be developed to enhance the entire development. Demolition in the absence of demonstration of exceptional circumstances would set an undesirable precedent contrary to proper planning and sustainable development. Notably the 2004 layout as permitted, did not involve the destruction of this building.

Regarding the second reason for refusal in relation to block typologies, the Lidl building is not site specific. County Development Plan objectives require a more site-specific design.

Car parking provision is not considered adequate and reliance on other car parks is not acceptable.

Issues in relation to the three remaining refusal reasons could be addressed by way of condition

Mr Michael O Donnell on behalf of the First Party Appellant asserted that in relation to the demolition of the coach house it is ironic that the Council now seeks to rely on the 2004 application which was refused by the Local Authority. There are trade-offs and various requirements of the Development Plan must be met in terms of use. Zoning is the most fundamental requirement of the plan and function follows form. The proposed layout and design is the best solution for Athenry House and its setting minimising impact on heritage aspects. The fragment of the Coach House is not a protected structure as it has not been identified in the schedule of structures identified in the plan. If it were a protected structure would it be required to protect as is a fragment or part of a ruinous building ? If the Board deems it necessary to show exceptional circumstances, the preservation of Athenry House, the preservation of the entrance gates, restoration of the dovecote will be achieved. It is reasonable to state that the demolition of the fragment of the coach house is appropriate to achieve the planning gain of the remainder of the development. The requirements of the plan have been met.

Regarding the building typology, the evidence of Mr Hickey, Mr Cronin and Mr McCarthy and Mr Woods note the approach of the applicant to heritage and the design methodology adopted. The focus is on Athenry House as the centre of attention within the development. The formation of streets is entirely appropriate and was directed and determined by the various elements of the site. The

proposal reflects the urban gain and is sensitive and appropriate in terms of scale, typology and design.

On the matter of parking the application of maximum standards is inappropriate. It has been demonstrated that there is adequate parking within the site based on TRICS database and comparison with other similar retail outlets. The provision of car parking in excess of the needs of the development is entirely inappropriate and not sustainable in light of the heritage sensitivities of the site.

The applicant welcomes the suggestions of the Council in respect of possible conditions and has no difficulty with the types of conditions as proposed by the Council. The important opportunity to restore this 18 century house and develop the site is timely and the design is a worthy contemporary design respectful of its environment and incorporating aspects of heritage, and will create an important piece of urban design. In terms of use, the site will be managed by a management company.

I **concluded** the hearing by informing all present that a report would be prepared and presented to the Board who would determine the application and all parties would be informed in writing of the decision by the Board. The hearing was then closed.

Bríd Maxwell,
Planning Inspector
15th December 2022