



An
Bord
Pleanála

Inspector's Report

ABP-315980-23

Development	The construction of a Discount Foodstore Supermarket with ancillary off-licence sales.
Location	Galway Road, Claregalway, Co Galway.
Planning Authority	Galway County Council.
Planning Authority Reg. Ref.	2260522.
Applicant(s)	Lidl Ireland GmbH.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	Lidl Ireland GmbH.
Observer(s)	<ol style="list-style-type: none">1. Caitriona Ni Loinsigh2. Conor Owens3. Damien and Sharon Connolly4. Gerard Mac Michael5. Larissa Greally6. Maura Fleming

7. Stella Fleming
8. Michael Hession and Elizabeth Hession
9. Patricia Philbin
10. Seamus and Sabina Tarmey
11. Brendan McGrath Associates on behalf of others.

Date of Site Inspection

19 September 2023.

Inspector

Stephen Rhys Thomas.

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1.0 Site Location and Description

- 1.1. The site is located at the centre of Claregalway, defined as a metropolitan settlement in the county of Galway. Claregalway or Baile Chláir is located approximately 10 kilometres northeast of Galway city, within the County Galway Gaeltacht. The town is located within the Galway metropolitan area and as such forms part of the Galway Metropolitan Area Strategic Plan (MASP). The town is situated where the N83 Galway to Sligo (Collooney) National Secondary Road crosses the River Clare. The town has a number of services that include local shops, commercial/business units and two hotels with associated facilities (leisure centre), educational facilities include secondary and primary schools.
- 1.2. The lands are currently in grass, and they form an infill site between detached dwellings along the main street of the town. On the opposite side of the street, is located a large commercial hub with ground floor retail and surface parking. A wide footpath aligns the front of the site, and the street comprises a wide carriageway with a traffic island in the middle. The site is level with the street, a low boundary wall is located to the back of the footpath and other boundaries comprise hedging and mature trees.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a Discount Foodstore Supermarket with ancillary off-licence sales area, detail as follows:
 - Part single, part two storey building, measuring 2,261 sqm gross floor space with a net retail sales area of 1,460 sqm;
 - Construction of a vehicular access point to the Galway Road and associated works to carriageway including modification of existing footpaths, removal of central median and creation of right turn lane and associated and ancillary works;
 - Car parking, pedestrian access, free standing and building mounted signage, free standing trolley bay cover / enclosure, roof mounted refrigeration and air conditioning plant and equipment, roof mounted solar panels, hard and soft

landscaping, cycle parking, boundary treatments, drainage infrastructure and connections to services / utilities, electricity sub-station.

Further information was submitted on the 14th of December 2022, notable changes include:

- A change of site area from 0.75ha to 0.76ha,
- Alterations to the site layout (including the realignment and reduction of car parking spaces (from 94 to 79),
- Cycle and pedestrian connections to other lands.
- An NIS was submitted as further information.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority issued a notification to refuse permission for five reasons, that can be summarised as follows:

1. Flooding - the subject site is at risk of flooding in the future and surface water arising from the development cannot be satisfactorily managed by way of the proposals submitted and hence contravene Policy Objective FL 2 and FL 6 and DM Standard 67.
2. European Sites – due to risk of flooding and surface water concerns, the integrity of adjacent sites cannot be ensured, Policy Objective NHB1 and NHB 3 would be contravened.
3. N83 – the site is located on a national road where the 50kph limit applies, this would interfere with the safety and endanger public safety by reason of traffic hazard or obstruction of road users.
4. A new entrance on to the N83 contravenes the N83 Part 8 application (Pl. ref LA02/19), and will result in a traffic hazard.
5. Scale and design at odds with Claregalway, and contrary to the provisions of Policy Objectives PM 1, PM 8 and PM 10 and to the provisions of Sections 3,

3.2. Planning Authority Reports

3.2.1. Planning Reports

The basis of the planning authority decision includes:

First Report

- Chapter 5 of the Galway County Development Plan 2022-2028 plan sets out the retail hierarchy, Baile Chláir has a retail function as a Level 4 Neighbourhood Centre. Under the land use zoning Matrix in the MASP both shop-convenience and Shops-Large Scale Convenience/Comparison centre are both 'Open for Consideration' on Town Centre/Infill Residential zonings. Having regard to the Retailing and Development Management Chapter of the Retail Planning Guidelines (2012) including the sequential approach and taking account of the zoning objective for Town Centre/Infill Lands, the land use zoning matrix for retail uses on such lands as set out in the MASP, the policy objectives of the Galway County Development Plan 2022-2028 which support retail development in town centre locations, in conjunction with the findings of the Retail Impact Assessment submitted, it is considered that the principle of development is acceptable.
- Water Services infrastructure is acceptable.
- The N83 national secondary road regularly floods on an annual basis in the area. Plans to address this issue form part of an approved Part 8 scheme, there is no date for these works to be commenced and completed. Hence, there is a significant risk that flooding of the road may impact on access being gained to the development. Clarity require over a soakaway on the site that forms part of N83 upgrade works.
- Traffic - a number of points of further information with regards to traffic and transportation.
- Design – the proposed development will add little to the town centre and fails to accord with the principles set out in the Retail Design Manual

- The site is located within a Class 1 landscape sensitivity designated area, outside of any scenic view or scenic route.
- Noise – further information required.
- Residential Amenity – outstanding issues relate to sunlight/daylight and noise.
- Ecology, Biodiversity & Green Infrastructure, further information required.

The Planner recommended further information with respect to the matters outlined above, including: flood risk, AA screening, roads and traffic, noise, cycle parking, connecting sites, ecology, sunlight/daylight, signage, design strategy and glint/glare clarity.

Second Report

- Flood Risk – issues are still unresolved with reference to SuDS and Standard DM 67. SuDS measures such as infiltration are not appropriate for this site for environmental integrity reasons. Historical flooding associated with the site and surrounding lands, remains a concern.
- AA – still a hydrological connection via surface water drainage to a designated site, construction impacts may result, measures are required. Foul water will be treated at Claregalway Wastewater Treatment Plant (WwTP), which is compliant with the ELV's set in the Wastewater Discharge Licence. AA is required, NIS submitted. Concerns remain regarding flood and surface water disposal proposals. The PA cannot conclude that the proposed development at this site, individually or in-combination with other plans or projects, would not adversely affect the integrity of the European Sites considered [Lough Corrib SPA and SAC], or on the integrity of any other European Site, having regard to their conservation objectives and qualifying interests.
- Roads – proposal is still incompatible with the consented Part VIII layout (LA02/19), the transport function of national roads and junctions will be impacted upon. and associated and layout concerns remain. Drainage proposals are still problematic. EV parking could be conditioned.
- Noise impact, no changes proposed.
- Cycle parking amended and can be improved by condition.

- Connections to other lands are now shown but a Road Safety Audit has not been carried and therefore unacceptable.
- Ecological Impact Assessment submitted and noted.
- Updated Daylight, Sunlight and Shadow (Neighbour Impact Assessment) noted.
- Bilingual signage noted.
- Design – the layout, design, scale, extensive massing and bulk are still a poor response to the site.
- Glint/glare – it is noted that no additional mitigation measures are required. Further information submitted fails to address concerns, recommendation to refuse permission.

3.2.2. Other Technical Reports

First Roads Report requires further information.

Second Roads report sets out four reasons for refusal.

3.3. Prescribed Bodies

Transport Infrastructure Ireland (TII) - The proposed development, located on a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated. The application indicates inappropriate standards which are not in accordance with those set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January, 2012). Any proposals relating to a National Road must be submitted to TII for consideration via a Design Report as detailed in TII Publications DN-GEO 03030 prior to submission of a planning application. TII has not received nor approved a design report for the proposed changes in accordance with the requirements DN-GEO 03030 . This issue should be resolved by Galway County Council prior to any decision to approve permission for the subject development.

Department of Culture, Heritage and the Gaeltacht (DAU) – if permission is granted, all mitigation measures outlined in the NIS shall be implemented.

Údarás na Gaeltachta – seeks appropriate recognition to the Irish language, recommends that any permission given for a planning development in the Galway Gaeltacht should enhance the aims of the Language Plan, and that any development should enhance, rather than weaken, the objectives of the Plan regarding the use of Irish in County Galway. Hence, ensure:

- That all signs will be in Irish
- That the business name will be in Irish
- That priority will be given to Irish at all times
- That Irish will be of an equal level and standard to other languages, in every case
- That Irish will be recognised in every aspect of development of the business, at all times
- That the language condition will be implemented according to Section 47 of the Planning Act.

3.4. **Third Party Observations**

A number of objections were received by the planning authority and they include the following issues: traffic congestion and safety, flooding, construction impacts, inappropriate design, more retail not needed, Irish language impacts, loss of residential amenity, overshadowing, and inadequate cycle infrastructure.

4.0 **Planning History**

4.1.1. None relevant to this site.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The Galway County Development Plan 2022 -2028 is the operative statutory plan for the area, and the site is located within the Metropolitan Area Strategic Plan and the Metropolitan Settlement of Baile Chláir, volume 2 of the plan refers.

The appeal site is located on lands zoned TCI – Town Centre Infill/Residential, to protect, provide and improve residential amenity and appropriate commercial developments within key town centre sites within the lifetime of this plan.

And

To support the provision of high quality new residential developments and commercial developments at appropriate densities within Town Centre sites. To provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.

Shop – Comparison is Not Normally Permitted

Shop – Convenience is Open for Consideration

Shops – Large Scale Convenience/ Comparison Centre is Open for Consideration

Other relevant policies and objectives include:

BCMSP 1 Sustainable Residential Communities

BCMSP 2 Sustainable Town Centre

BCMSP 7 Transportation and Urban Renewal Framework Strategy

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within or directly adjacent to any Natura 2000 sites. There is a designed site located 250m to the north, Lough Corrib SAC (site code 000297). The applicant submitted an AA Screening Report and Natura Impact Statement as part of further information.

5.3. EIA

- 5.3.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that 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

6.1.1. A First-Party Appeal was submitted to An Bord Pleanála on the 7th of March 2023 by the Applicant opposing the Planning Authority's decision. The introduction includes a detailed critique of the Planner's Report. The grounds of appeal can be summarised as follows:

- NIS – though the development was screened out, an NIS was submitted to address further information sought by the PA. The NIS was prepared as an extreme precautionary measure and the mitigation measures outlined are not absolutely required. It is noted that the recent Part 8 Road project did not require NIS. The preparation of an NIS is not to be interpreted as an acceptance of impact to a designated site. It is noted that the NPWS had no similar concerns. Reasons for refusal 2 does not apply.
- Subject Site Flood Risk – the subject site is not subject to fluvial flood risk, a pocket of pluvial flood risk does exist within the site. The site is not subject to flood risk and will not suffer flooding from the road, reasons 1 and 2 are not relevant.
- Surface Water Infiltration – the proposal to infiltrate to ground all surface water from the site is unfairly dismissed by the PA. On site tests demonstrate that infiltration is possible and suitable for the site and the evidence for mottling is disputed.
- Public Road Flooding – flooding of the public road and the site are two separate issues. If the public road does flood, this should not hinder development because access to land either side would be restricted. Offers to solve the problem of road flooding (on site through expanded attenuation and infiltration) has been ignored by the PA.

- Hydrological Link to Designated Sites – it is proposed that all surface water will discharge to groundwater and there will be no connection to the Clare River and designated sites. There will be no surface water spill from the site to the public road. There is no pathway or linkage between the site and designated sites. An NIS details mitigation measures to address the construction phase and limit connections.
- Part 8 Drainage Works – Further information submitted offered a solution for flooding of the public road, whether the Part 8 drainage works advanced or not. This was not accepted by the PA despite the suitability of the works proposed.
- Part 8 Road Works – because of the right turn lane detailed in Part 8 drawings, the proposed development would be incompatible with the scheme, this is not accurate. Any right turn lane would be pre-Part 8 and be omitted post the Part 8 layout, this was all detailed in the further information submitted. The TTA concludes that the proposed access arrangements are entirely compatible with the Part 8 design. Reason 3 is not relevant.
- TII – relevant TII standards have been included in the proposed development. The proposal will fit in with Part 8 road improvements. There is nothing unusual about the proposed access arrangements for a town centre location and DMURS is the relevant manual for design standards in an urban area. The applicant will accept a condition to submit an RSA.
- Traffic Impact and National Road – the proposed development accords with a town centre use and the pre-eminence of national secondary road traffic flows undermines development plan policy for urban areas. The new store will generate minimal traffic flows. ABP decisions (248255, 247458 and 245989) are noted with reference to road capacity, zoning and town centre location. Opening hours should not be limited, but should accord with the proposed opening hours set out in the application.
- Design, Scale and Layout – the original design rationale for the site is supported and is appropriate for this town centre location and bring public realm improvements.

- Masterplan Provisions – the proposed layout supports further growth onto zoned lands, the indicative masterplan demonstrates this. The overall planning gain offered by the development should be considered, ABP cases 247105 and 300802 refer.
- Policy Objectives and Planning Guidelines – the policies and objectives referred to by the PA are vague and have not been substantiated by any detailed analysis. The Development Management Guidelines are referenced to refute the use of broad objectives and policies in reasons for refusal.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

A total of 11 submissions were received, issues include: increased traffic congestion, traffic safety, flooding, construction noise, opposition to town centre location, opposition to the timing of development in the absence of the Claregalway By Pass, visual impact, injurious to residential amenity, sufficient existing retail provision in Claregalway, insufficient population to support the development, noise and air pollution, emergency services access, contrary to opportunity site status in the plan, zoning and retail planning guidelines, shadow cast on adjoining property, cycle parking, pedestrian safety and permeability to adjoining lands and protection of the Irish language.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Flood risk and surface water management
- Natura 2000 Sites
- National Road – N83 and Part 8
- Design, scale and massing
- Other Matters
- Appropriate Assessment

7.2. Zoning

7.2.1. The site is located on lands zoned TCI – Town Centre Infill/Residential in the Metropolitan Settlement of Baile Chláir, as detailed by the Metropolitan Area Strategic Plan (MASP), volume 2 of the Galway County Development Plan 2022-2028. From the outset the planning authority raise no issues about the principle of providing either convenience or large scale convenience/comparison retail at this location at the centre of Claregalway. The proposal fulfils overarching policies and objectives to support town centres and promote sustainable development as outlined by the development plan for the area.

7.2.2. I note that a number of observers were concerned that there was already enough retail provision in the town, the proposed development was not needed and would lead to traffic generation and congestion. Leaving aside the matter of traffic, I note that the applicant's Retail Impact Assessment (RIA) concludes that with projected population growth and even with a conservative projection for growth in retail spend within the catchment area, adequate retail spend capacity will exist in the Design Year (2025). The planning authority accept the findings of the RIA and are confident that this is the right location for the scale of retail proposed. I note the Core Strategy, Settlement Strategy and Housing Strategy of the County Development Plan and its

population projections for Claregalway, and the principles of compact growth set out in the MASP. I also note the link between retail development, population targets and the overall growth potential of Claregalway. All of these factors lead to the conclusion that retail development at this location in the centre of the town is acceptable in principle.

7.2.3. However, the planning authority had other concerns regarding flooding, designated sites, roads, Part 8 and the overall design of the development. All of these issues formed five reasons for refusal and the applicant disputes each of them. I am satisfied that from a retail planning and overall principle of development perspective, the scale of retail function at this location within a town centre is supported by the development plan and the use proposed is entirely acceptable.

7.2.4. There are five reasons for refusal and the applicant has selected to use a thematic approach to refute each issue. There is a certain amount of crossover between reasons for refusal and the main themes raised are those to do with flooding/surface water management, Natura 2000 sites, road and road design, and finally the overall design rationale behind the proposal. I have ordered my assessment around the five reasons for refusal and have referenced the applicant's grounds of appeal and where relevant any observations received.

7.3. Flood risk and surface water management

7.3.1. The first reason for refusal refers to historical flooding in the wider area and on site. The planning authority are concerned that not enough proof has been brought to bear to determine that the site is not at risk of flooding or that surface water generated on site can be adequately managed. The PA concludes that if permitted the development would contravene Policy Objective FL2 and FL6 and DM Standard 67. The applicant disagrees and states that initial and updated flood risk assessment and surface water management proposals adequately demonstrate the suitability of the site. According to the applicant, portions of the existing site may be at risk of pluvial flooding during periods of intense rainfall. However with respect to fluvial flooding the site is not at risk of flooding, will not present a flood risk and can adequately manage all surface water generated on site.

7.3.2. In terms of water services, the Board will note that the applicant submitted a Flood Risk Assessment (FRA) and an Engineering Design Report, prepared by Tobin

Consulting Engineers, in support of the proposed development. Both reports were updated to reflect further information sought by the planning authority, received 14th December 2022. The planning authority dispute the technical findings of the applicant's reports and permission was refused around the uncertainty about flood risk and surface water design. I note the concerns raised with regard to a Part 8 road scheme, and the submission of more detailed surface water design proposals and how the PA considered the information to be insufficiently detailed. Nevertheless, I am satisfied that the reports prepared by the applicant are satisfactory, in accordance with relevant guidelines and the technical requirements of the PA can be applied by an appropriately worded condition if permission is granted.

7.3.3. With respect to flood risk I have relied on the updated FRA received by the PA on the 14th December 2022, it is a complete FRA and seeks to answer the issues raised by the PA at further information stage. The FRA explains that documented flood events due to the Clare River bursting its banks and overflowing have been recorded, but not on site. A small area of pluvial flooding is shown on mapping and is likely due to a local depression within the subject site. The Clare River (Claregalway) Flood Relief Scheme was completed in 2019 and the benefits of this are outlined in the FRA. Mapping indicates predicted low probability groundwater flooding to the south of the subject site. The Flood Relief Scheme works have been implemented to reduce flood risk associated with the turlough and Lakeview area and it is estimated the subject site is not liable to fluvial flooding. Pluvial flooding is a factor to consider but the report states that the surface water at the site and at the road to the front will be managed by a dedicated stormwater drainage system. The landscaping and topography of the site also provides safe exceedance flow paths during an extreme event. It is estimated that the risk of pluvial flooding at the subject site is minimal. the proposed store and subject site are located within Flood Zone C i.e., there is less than a 0.1% Annual Exceedance Probability (AEP) of pluvial/fluvial/coastal/groundwater flooding. The site is located in flood zone C and the FRA states that as the Planning System and Flood Risk Management Guidelines consider commercial developments appropriate in flood zones B and C, the Justification Test does not need to be applied.

7.3.4. I can see that the FRA has been carried out in accordance with the requirements set out for such reports in the Planning System and Flood Risk Management Guidelines.

I note the comments made by the Roads & Transportation Dept. of the Council. It appears to me that concerns primarily concern flooding that currently occurs on the public road and I observed this on the day of my site visit during a day of intermittent but heavy rainfall. It is the uncertainty voiced by the PA that has informed the first reason for refusal and a dismissal of the conclusions contained in the FRA. This is an unreasonable approach and that a difference of opinion as to the suitability of the site for groundwater infiltration has arisen and focused on safeguarding the environmental integrity of the area rather than just flood risk.

7.3.5. The updated Engineering Design Report outlines the SuDS measures to be deployed and the soakaway tests carried out on site, section 2.3 and 2.5 of the report refer. In addition, the report outlines the provision of an additional stormwater drainage tank for the public road (N83) to alleviate current flooding issues and to become redundant once road/drainage improvement works are completed under a Part 8 consent. These findings have been rejected by the PA and mention is made of mottling (not found by the applicant's report) and the unsuitability of the site to receive surface water generated on site.

7.3.6. I have examined the Site Investigation Report contained in Appendix 5 of the applicant's Engineering Design Report. The site investigations were conducted between 7th June 2022 and 12th July 2022, including: Five Cable Percussion Borehole with follow-on Rotary Drilling, one Rotary Borehole, four Trial Pits and one Infiltration Test. Of note, ground type is described, bedrock found at depths varying from of 3.4m BGL to 3.9m BGL and groundwater was encountered at 3.9m BGL in BH1A and rose to 3.6m after 20 minutes. Based on these findings it was found that the site returned a Soakaway Infiltration Rate – $f=0.306\text{m/hr}$ and the volume of the required holding tank was calculated at 171m^3 on this basis. The PA do not put up any critique of these findings but refer to DM Standard 67 in the Planner's Report and reason for refusal number one. For clarity, I suspect an error has been made and reference should be made to DM Standard 68 Sustainable Drainage Systems (SuDS), not DM Standard 67 Deposit/temporary storage units, clothes banks and commercial washing machines. In any case, I can see that the applicant intends to employ SuDS measures and that the site is capable of receiving surface water generated by the development. Any finer detail on the design of SuDS and surface

water management can be determined in advance of development and with agreement with the planning authority, a condition should be attached.

7.3.7. The matter of periodic flooding of the public road seems to be a recurrent problem, articulated by observers and confirmed by the PA. Proposals are afoot to remedy the issue and an approved Part 8 planning application (Pl. ref LA02/19) suggest that the issue is well known. I have not seen the Part 8 proposal; it is not on file. However, in my mind this is an issue already identified and to be resolved when and if the Part 8 is implemented, no information has been provided by the PA on this matter. It is a matter outside the control of the applicant. But I note that the applicant has offered to assist with the deficiencies of the public road drainage at present, by the provision of a holding tank and infiltration to groundwater on their site. The PA have rejected this offer for all of the reasons outlined above with respect to flood risk and site suitability. The issues around the Part 8 are discussed in later sections of my report, but for now I am not satisfied that issues beyond the control of the applicant should necessarily fall to them to fix.

7.3.8. The FRA has identified that pluvial flooding is a factor on site and that SuDS and infiltration to groundwater is an acceptable approach that will not alter flood risk, roadside flooding does not arise as an issue. In terms of the first reason for refusal I can see that policy objectives FL 2 Flood Risk Management and Assessment, and FL 6 Surface Water Drainage and Sustainable Drainage Systems (SuDs), and DM Standard 68 (not 67) have been complied with by the applicant, there is no contravention of the development plan in these respects. As for the overriding issue of flood risk, I am satisfied that documentation submitted by the applicant satisfactorily illustrates matters as they pertain to this urban and appropriately zoned site on flood zone C. The site is not at risk from flooding and will not generate a flood risk beyond its boundaries. SuDS measures are to be implemented on site in accordance with the development plan policies and objectives and I am satisfied that detailed matters can be agreed prior to the commencement of development.

7.4. Natura 2000 Sites

7.4.1. The second reason for refusal highlights that because of the uncertainties around flood risk and SuDS site suitability, adverse impacts to the integrity of nearby Natura 2000 sites (Lough Corrib SAC and SPA) cannot be determined with certainty. I

examine in greater detail the matter of Natura 2000 sites and AA at section 7.8 of my report. I conclude that the site should be screened out and thus no requirement to prepare an NIS. The applicant originally screened out the need for an NIS and only submitted one in extreme caution and as a response to the PA's request for further information. The NPWS noted the findings of the NIS and stated that measures outlined should be implemented in full.

7.4.2. The second reason for refusal goes on to refer to NHB 2 European Sites and Appropriate Assessment and NHB 3 Protection of European Sites, and that these have been contravened by the applicant. To be clear NHB 2 requires Appropriate Assessment to be carried out in relation to works, plans and projects likely to impact on European sites (SACs and SPAs). In the first instance the applicant submitted an AA Screening Report prepared by Altemar Ltd Marine and Environmental Consultancy. The Screening Report concluded that there is no possibility of significant impacts on European sites, features of interest or site-specific conservation objectives, NIS not required. However, an NIS was prepared and submitted at the request of the PA but its findings are not accepted. All of the reports prepared by the applicant conclude that the development will not give rise to significant cumulative, direct, indirect or secondary impacts on European sites, and so therefore NHB 7 has been complied with.

7.4.3. As the Board is the competent authority to deal with matters that concern Natura 2000 sites, screening and AA, I am satisfied that enough information is available on file to allow a decision to be made, note section 7.8 below. In that respect and given the foregoing, I am satisfied that NHB 2 and NHB 7 of the County Development Plan have been complied with. Furthermore, I am satisfied that the site will not adversely affect the integrity of Natura 2000 sites and again section 7.8 of my report refers.

7.5. National Road – N83 and Part 8

7.5.1. The third reason for refusal refers to the N83, the speed limit of 50kph and traffic hazard. Policy Objective NR 1 Protection of Strategic Roads, is referenced by the PA and its requirement to have regard to the Spatial Planning and National Roads Guidelines for Planning Authorities' DECLG, (2012) and the Trans-European Networks (TEN-T) Regulations. In this regard, I note that Transport Infrastructure Ireland (TII) have also raised concerns about this development endangering the

operation and safety of a road where the maximum speed limit applies. The applicant explains the town centre location of the site and that the Design Manual for Urban Roads and Streets (DMURS) should apply. In addition, a Design Report prepared by TII/Galway County Council was submitted by the applicant as further information, the report reaches no relevant conclusions.

7.5.2. It is important to know the context of this site and its surroundings. The lands are located at an infill location within the town centre of Claregalway. Development in the vicinity comprises houses, commercial premises, retail units, hotels and apartments. The lands are firmly located in the town centre on an urban street and the development plan zoning maps recognise this. The street is wide and features a combination of ghost islands and upstanding central medians, the posted speed limit is 50kph. This is an urban location, and the Design Manual for Urban Roads and Streets (DMURS) applies. To be clear, DMURS replaces existing national design standards and shall be used throughout all urban areas in Ireland when designing/upgrading roads and streets. The use of DMURS is mandatory for all road authorities (Circular RW 6/2013) and (PL 17/2013) applies to all Roads and Streets in Urban Areas, in this instance no other guidance document is relevant and Policy objective NR 1 does not apply. To put it another way, section 6.5.3 of the development plan seeks to safeguard the safety of road users, the transport of goods and services and connectivity between the settlements and the wider region. The key element here is the protection of national and important local roads between settlements, not within settlements where the 60kph and 50 kph speed limit applies.

7.5.3. The applicant has prepared a Traffic Impact Assessment (TIA) to demonstrate the suitability of their proposal from a traffic and transport perspective. I note that the planning authority do not dispute its findings, but observers are concerned that existing traffic congestion in the area will be made worse. I observed, both as a pedestrian and car user that traffic congestion is a feature of Claregalway at present and the TIA adequately illustrates the current traffic situation. However, the addition of the proposed development will add little to current volumes, with percentage increases of less than 5% and as low as 2.8% in all scenarios north and south along the N83. These are minimal increases and to be expected if the site were developed for the purpose it has been zoned for. Junction capacity will be unaffected in all cases too, future N83 upgrades are included in modelling.

7.5.4. The fourth reason for refusal refers to a significant contravention of the approved Part 8 scheme and that this would lead to obstruction and traffic hazard. The access arrangements comply with DMURS and the planning authority have no particular concern about the design but do raise issues that the proposal would contravene a permitted Part 8 road improvement scheme. This may or may not be the case, I have not seen any drawings for a Part 8 scheme, no official and consented drawings are on file. The applicant has prepared drawings that show the road layout after the Part 8 improvements have been completed, further information drawing number 11385-2010 Revision PO refers. In addition, this is an urban street where a multiplicity of entrances is to be expected and flexibility should be designed into any urban street improvement. In my experience, approved Part 8 schemes can be adjusted to suit changing circumstances without resorting to a complete redesign. In this instance it would be appropriate to permit the development with specific detailed design matters to be agreed prior to the commencement of development. After all, this is an urban infill site where the 50kph speed limit applies. As an aside, I observed that the N83 or main street of Claregalway, is heavily trafficked with minimal safe pedestrian crossing points. The addition of a new entrance to a business premises will serve to slow traffic speeds and moderate driver behaviour along the street. Further, the provision of better pedestrian facilities to the front of the site and new public realm will help to create a more urban streetscape at this location. All of these factors have been designed in accordance with DMURS for a site at the heart of the town, where passive traffic calming and increased vulnerable road user facilities are to be welcomed.

7.6. **Design, scale and massing**

7.6.1. The planning authority have significant concerns about the design, scale, massing, bulk and layout of the proposed development and all these features form the basis for the final reason for refusal. It is the view of the planning authority that the proposed development fails to tie in with the existing urban form of Claregalway and no strong definition to the street edge is provided. According to the planning authority all of these factors go against Policy Objectives PM 1, PM 8 and PM 10 of the current development plan and sections 3, 7 and 8 of the Retail Design Manual. Despite an opportunity to address all of these issues sought by way of further

information, the applicant stands over their initial design and nothing significant is proposed from that originally submitted with the application.

7.6.2. It is worth noting the current urban context of the site. The principal feature is the N83 road that passes through the centre of Claregalway, it is wide, with central medians and ghost islands, it is not an attractive environment to walk along. Buildings to the east of the road are single storey houses in the main and unremarkable in design. Buildings to the west of the road comprise early twentieth century structures, some to the back of the footpath and others set well back. Newer development opposite the site comprises three storey buildings from the early 2000s and again unremarkable in design and set well back from the road and further separated by surface parking and an access lane. The overall area is not designated as an Architectural Conservation Area, but a single cottage listed on the Record of Protected Structures is located across the street from the appeal site, RPS 109 refers. I do not anticipate any adverse heritage impacts to the setting and context of RPS 109, such as it is. The area as a whole has no specific character or quality that can be defined positively, being dominated by the N83. The proposed development seeks to address the area's deficit in any kind of definition of place and good urban design by providing a shopfront that aligns with the existing building line to the north and new public realm. Perspective drawings submitted as further information demonstrate this feature of the overall design rationale.

7.6.3. I note that the planning authority have referenced Policy Objectives PM 1, PM 8 and PM 10 and that the proposed development would be contrary to all of these aims of the development plan. Firstly, Policy Objective PM 1 refers to placemaking and the promotion of a distinctive sense of place in attractive streets, spaces, and neighbourhoods that are accessible and safe places for all members of the community to meet and socialise. In this context, the starting point to build on is quite low, I have already described that the environment is currently roads dominated and devoid of any kind of organised urban character. The site is undeveloped and sits amidst detached dwellings set back from the street edge. The development will provide a modern and contemporary shopfront with an active frontage by virtue of a glazed elevation. The vehicular entrance has been designed around DMURS and new landscaping and public realm will be provided. Secondly, PM 8 refers to Character and Identity, in this instance there is little in the immediate area to respect

and enhance and there are no specific or unique features to build upon. I am satisfied that a modern and contemporary design is the correct response to this site. Lastly, PM 10 refers to Design Quality, and in this instance the proposal will provide some element of architectural quality, fit for its intended retail use, durable in terms of design and construction, respectful of its setting, such as it is and will result in high quality and well considered public realm. In relation to the Retail Design Manual, I note that the policy objectives above mirror sections 3 Character and Context, 7 Public Realm and 8 Built Form and I see no conflicts between the proposal and the Retail Design Manual.

7.6.4. I am satisfied that the design, scale and layout of the proposed development is not entirely out of character with its setting and should act as a catalyst for a more organised urban design resolution to the centre of Claregalway. I note the submission of a wider masterplan by the applicant, and it does provide a basis for how the overall lands could be development. But in the absence of a specific Local Area Plan or any other kind of locally agreed urban design plan for Claregalway, I am satisfied that the proposed development will not prejudice the overall improvement of the area and will assist with the changes that should happen at this town centre location in accordance with good urban design principles.

7.7. Other Matters

7.7.1. Residential Amenity – Some observers have raised issues about residential amenity and how the development will impact them. The issues range from the wider scale issues of the overall design of the development to noise nuisance and more local concerns about the location of the building so close to its north eastern boundary. I note that the planning authority did not consider it necessary to include the erosion of residential amenity as a reason for refusal. For my analysis I reference those drawings submitted to the planning authority on the 14th December 2022.

7.7.2. The main concern about impacts to residential amenity emanate from a detached dormer dwelling set in a large garden to the north east of the appeal site. For this property the repositioning of the store a metre off the boundary is not acceptable. The two storey store (between 7.2 and 7.5 metres in height) is to be located at a distance of between 2.5 and 3.2 metres off the boundary and between 6.5 and 7.8 metres from the single storey gable of the dwelling. A distance of 17.4 metres will

separate the rear and two storey side elevation of the existing dwelling, from the side elevation of the new store that includes high level windows. The applicant included updated reports with regard to a Sunlight, Daylight & Shadow Assessment (Impact Neighbours), a Glint & Glare Assessment Report, Noise Impact Assessment and drawings that focus on the relationship of the development with neighbouring property.

7.7.3. From the documentation prepared as further information, I can see that impacts upon sunlight, daylight and overshadowing are within the limits required by guidance on the matter, the Chris Shackleton Consulting report refers. In terms of noise impact, the report prepared by ICAN Acoustics envisages no issues and that the arrangement of the site precludes any adverse impact upon residential amenity. In addition, I note that a noise barrier is to be attached around the rooftop plant area and that deliveries will be limited to one per day. I note that delivery times are set out at between 0700 and 2300 and this may be an unacceptable noise burden for adjacent residents, I recommend a condition to slightly curtail delivery times.

7.7.4. Overlooking or loss of privacy is not an issue that concerns me, given the blank elevation and use associated with the site. However, the building will sit in a space previously unoccupied, and it is this perception of an overbearing appearance that troubles the occupiers of the dwelling to the north east and to some extent I agree. Drawings prepared by the applicant show a benign relationship between the new store and its neighbour, site sections show hedging and mature trees (to be cut back), drawing number 05.01 refers. Landscape drawings show a broad area of existing Leyland Cypress further along the boundary and this is to be pruned in advance of construction, but I doubt the long term success of this treatment. A new native hedgerow is planned for the narrow margin between the new store and its boundary to the northeast, but again I have reservations about the success of this feature to flourish and fully mask the extensive and elongated bulk of the store. I agree that a landscaped buffer between properties is the answer and to that end I recommend that a revised landscaping plan be submitted. The revised plan should concentrate on the northern part of the site and provide an enlarged separation distance of at least 5 metres between the new store and its boundary. This will require the footprint of the store to move southward, but I anticipate no great issues to impede this realignment as the site is large and internal roadways can be

narrowed in accordance with DMURS. Such changes would also address the issues raised in the final reason for refusal in terms of design and layout.

- 7.7.5. The issues raised by observers about residential amenity are addressed by the documentation submitted as further information by the applicant. Subject to the amendments to the layout and landscaping recommended by me, I anticipate no adverse impacts to residential amenity will result from this retail development.
- 7.7.6. Site Enlargement – The planning authority note a change of site area from 0.75ha to 0.76ha, and understand that this is not permissible during the course of a planning application. From an examination of the drawings submitted I can see that a small portion of the site has been extended, within the blue ownership outline, at the southern part of the site. This extension is to facilitate the requirements of further information and the call for additional parking. The Planning and Development Regulations 2001 (as amended) set out the requirements for planning applications amongst other things. With respect to site boundaries article 298 applies and it states the site boundary to which the application relates shall be shown and shall be clearly delineated in red. The applicant has done this and because changes at further information stage were proposed, including an amendment to the red line boundary, observers were alerted by way of a new public notice. In addition, I note that the Development Management Guidelines (2007) that provides advice on such matters do not reference site boundary amendment one way or the other. I am satisfied that the applicant can extend the site boundary within the confines of their own site, this was advertised and revised drawings accepted by the planning authority.

7.8. **Appropriate Assessment**

Introduction

- 7.8.1. The applicant initially prepared an AA Screening Report that screened out the need for an NIS. Subsequently, the planning authority required the submission of an NIS due to concerns about flood risk and surface water management on site. The applicant updated their screening assessment to include portions highlighted in green. It is stated that the construction phase presents the potential for an indirect hydrological connection. There will also be a wastewater pathway via the Claregalway Wastewater Treatment Plant and because the site is at risk of flooding

this could lead to silt and contaminated surface water runoff from the subject site entering the Clare River. Mitigation measures are proposed and the applicant prepared an NIS and submitted it as further information.

- 7.8.2. This section of my report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the revised Appropriate Assessment Screening Report and Natura Impact Statement (NIS) submitted as further information (December 2022) prepared by Altemar Marine and Environmental Consultancy. I have had regard to the submissions of observers in relation to the potential impacts on Natura 2000 sites. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

The Project and Its Characteristics

- 7.8.3. The detailed description of the proposed development can be found in section 2.0 above.

Submissions and Observations

- 7.8.4. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 3 and 6 above. Observers have not raised any specific issues with regard to appropriate assessment, however, issues are raised in relation to flood risk. The planning application was referred to a number of statutory consultees, including Uisce Éireann and the Minister for Housing, Local Government and Heritage (NPWS). With specific reference to appropriate assessment matters, I note that the NPWS made a submission.

The European Sites Likely to be Affected (Stage I Screening)

- 7.8.5. A summary of European Sites that are considered to be within a zone of influence of the site is presented in the *Identification of Relevant European Sites* section of the applicant's AA Screening Report, table 1 refers. The development site is not within or directly adjacent to any Natura 2000 site. The site is located in an area surrounded

by existing low density residential development and agricultural land. The site comprises infill lands currently in grass.

- 7.8.6. I have had regard to the submitted Appropriate Assessment screening section of the applicant's report that identifies a likely zone of impact of the proposed development that includes the following sites: Lough Corrib SAC, Galway Bay Complex SAC, Lough Corrib SPA, Inner Galway Bay SPA, and the Cregganna Marsh SPA. In addition, the AA screening section of the document outlines through figures 8 and 9, the geographical spread of other sites and proximity to the subject site.
- 7.8.7. The specific qualifying interests and conservation objectives of the relevant sites highlighted above are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, including observations on the application made by prescribed bodies and other observers, and I have also visited the site.
- 7.8.8. Table 1 of the Screening Report states no direct hydrological or biodiversity connection between the site and the Lough Corrib SAC, Galway Bay Complex SAC, Lough Corrib SPA, Inner Galway Bay SPA, and the Cregganna Marsh SPA. Table 2 goes on to explain the possibility of a potential impact from the construction phase and this presents the potential for an indirect hydrological connection to Lough Corrib SAC & SPA via surface water runoff. A further indirect connection is highlighted between the site and the Claregalway Wastewater Treatment Plant and ultimately the Clare River. Finally, it is stated that because the site is at risk of flooding, the operational phase presents the possibility of contaminated surface water reaching the Clare River. All of these circumstances mean that neither the Lough Corrib SAC or SPA can be excluded because mitigation measures are proposed to address these issues. According to the applicant's report, the Lough Corrib SAC and SPA cannot therefore be excluded.
- 7.8.9. Significant impacts on the remaining SAC and SPA sites are considered unlikely, due to the distance, dilution factor and the lack of hydrological connectivity or any other connectivity with the application site in all cases having consideration of those

site's conservation objectives. As such, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites:

- Galway Bay Complex SAC (000268)
- Inner Galway Bay SPA (004031)
- Cregganna Marsh SPA (004142)

7.8.10. The qualifying interests of the Lough Corrib SAC and SPA are considered and listed below:

Table of European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Distance from site (approx.)	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
<p>Lough Corrib SAC (000297)</p> <p>To maintain or restore the favourable conservation condition of habitats as listed in Special Conservation Interests.</p>	<p>238 metres</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche Batrachion vegetation [3260]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco Brometalia) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Active raised bogs [7110]</p>

		<p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Bog woodland [91D0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Rhinolophus hipposideros</i> (Lesser Horseshoe Bat) [1303]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Drepanocladus vernicosus</i> (Slender Green Feather-moss) [1393]</p> <p><i>Najas flexilis</i> (Slender Naiad) [1833]</p>
<p>Lough Corrib SPA (004042)</p> <p>To maintain or restore the favourable conservation</p>	<p>4.9km</p>	<p>[A051] Gadwall (<i>Anas strepera</i>)</p> <p>[A056] Shoveler (<i>Anas clypeata</i>)</p> <p>[A059] Pochard (<i>Aythya farina</i>)</p>

<p>condition of the bird species and habitats listed as Special Conservation Interests.</p>		<p>[A061] Tufted Duck (<i>Aythya fuligula</i>) [A065] Common Scoter (<i>Melanitta nigra</i>) [A082] Hen Harrier (<i>Circus cyaneus</i>) [A125] Coot (<i>Fulica atra</i>) [A140] Golden Plover (<i>Pluvialis apricaria</i>) [A179] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A182] Common Gull (<i>Larus canus</i>) [A193] Common Tern (<i>Sterna hirundo</i>) [A194] Arctic Tern (<i>Sterna paradisaea</i>) [A395] Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>)</p>
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7.8.11. The Table above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration, also note Table 2 contained within the applicant’s report.

Potential Effects on Designated Sites

7.8.12. The applicant points out that the proposed development site is at risk of pluvial flooding. During the construction phase and/or operation, a flood event could cause an indirect hydrological connection to the Lough Corrib SAC and SPA and result in contaminated silt infiltration unless mitigation measures are provided.

7.8.13. The applicant states that it cannot be concluded beyond reasonable scientific doubt, in view of best scientific knowledge, on the basis of objective information and in light of the conservation objectives of the relevant European sites, that the proposed development, individually or in combination with other plans and projects, would not be likely to have a significant effect on Lough Corrib SAC and Lough Corrib SPA. As a result, it is recommended to the competent authority that an Appropriate Assessment is required, and a Natura Impact Statement has been prepared in respect of the proposed development.

7.8.14. I understand that in this instance the standard surface water management measures to be incorporated are not included to avoid or reduce an effect to a Natura 2000 Site, and therefore they should not be considered mitigation measures in an AA

context. However, the applicant makes the point that there is a possibility of pluvial flooding on site, in the absence of appropriate mitigation and following the precautionary principle, the construction and operation of the proposed development has the potential to result in pollution to the Clare River. In addition, potential hydrological connectivity was identified between the proposed development and downstream SPAs/SACs. A potential pathway for indirect effects on the aquatic QIs of the SAC and SCI 'wetland and waterbirds' as a result of deterioration in surface water quality resulting from pollution associated with the construction and operational activities was identified. It is stated that mitigation measures will be required to ensure that water quality is maintained prior to discharge to groundwater. Thus, as a result of these measures, the risk to water quality during the construction phase on the Lough Corrib SAC (000297), and Lough Corrib SPA (004042) should be considered, other sites can be excluded because of the separation distances involved, lack of direct connections and any dilution factors that might arise. According to the applicant, following a precautionary approach, the potential for quantities of silt or other construction pollutants to be washed downstream means that significant effects to the Lough Corrib SAC (000297) and Lough Corrib SPA (004042) cannot be ruled out.

7.8.15. Observers and the planning authority have noted technical rather than ecological/biodiversity aspects of the NIS. Irish Water confirm that the proposed development can be facilitated without upgrades. The NPWS recommend the implementation of all measures outlined in the NIS. The AA screening report has identified the potential for impacts during the construction and operational phase of the development and that there is the potential for surface water pollution.

7.8.16. **Consideration of Impacts:**

- There is nothing unique or particularly challenging about the proposed development, either at construction phase or operational phase.
- With regard to impacts on sites within a 15 km radius due to ecological connections, I am satisfied having regard to the nature and scale of the proposed development on serviced land, the minimum separation distances from European sites, the intervening uses, and the absence of direct source – pathway – receptor linkages, that there is no potential for indirect impacts on sites in the

wider area (e.g. due to habitat loss / fragmentation, disturbance or displacement or any other indirect impacts) and that no Appropriate Assessment issues arise in relation to the European sites listed above.

- During the operational stage, after passing through surface water management systems, all stormwater generated will be managed on-site through infiltration. The surface water pathway creates the potential for an interrupted connection between the site and the Clare-Corrib groundwater catchment. No specialised flood risk measures are proposed in response to the potential for on site pluvial flooding other than to build in to calculations for on site retention prior to infiltration to groundwater.
- During the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site and entering the water system. During the operational phase clean, attenuated surface water will infiltrate to groundwater. The pollution control measures to be undertaken during both the construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in the Clare-Corrib groundwater catchment can be excluded given the distant and interrupted hydrological connection, and the nature and scale of the development.
- In terms of in combination impacts other projects within the Galway area which can influence conditions in the Lough Corrib area via rivers and other surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

7.8.17. Surface water from the proposed development will pass through a range of traps and filters. Waters from roofs and paving and all other surface water will be attenuated in underground attenuation tanks before discharge through infiltration. All surface waters will pass through a hydrocarbon interceptor before discharge (See 'Engineering Design Report' and drawings by Tobin Consulting Engineers).

- 7.8.18. These waters will ultimately drain to Clare-Corrib groundwater catchment, and Galway Bay via a variety of watercourses. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a commercial development on any site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission.
- 7.8.19. The good construction practices are required irrespective of the site's hydrological connection via the urban surface water drainage system and groundwater catchment system to those Natura 2000 sites. They are not required for the purpose of mitigating any potential impact to those Natura sites, given the distance and levels of dilution that would occur in any event. There is nothing unique, particularly challenging or innovative about this urban development on a town centre site, either at construction phase or operational phase. It is therefore evident from the information before the Board that the proposed construction on the applicant's landholding would not be likely to have a significant effect on the Lough Corrib SAC (000297) or Lough Corrib SPA (004042), Stage II AA is not required.
- 7.8.20. I note the applicant submitted a Natura Impact Statement (NIS). In deciding to prepare and submit an NIS the applicant states that the precautionary principle was being applied with extreme caution. I am of the opinion that the application of such a heightened sense of the precautionary principle in this instance represents an over-abundance of caution and is unwarranted.

AA Screening Conclusion:

- 7.8.21. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites either located within the same groundwater catchment or located downstream are so far removed

from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.

- 7.8.22. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Lough Corrib SAC (000297) or Lough Corrib SPA (004042), or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Galway County Development Plan 2022-2028 and the Town Centre/Infill Residential zoning objective for these lands, to the location of the subject site within the town centre of Claregalway, and to the existing pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of properties in the vicinity, would not be detrimental to the character and amenity of the area, would not result in a risk of flooding to the site and adjoining properties, and would be acceptable in terms of pedestrian and traffic safety. The proposed development 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 14th day of December 2022, and by the further plans and particulars received by An Bord Pleanála on the 7th day of March 2022, 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. A revised and 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:-

(a) details of all proposed hard surface finishes, including samples of 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;

(d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

(e) The revised landscape plan shall include a margin of at least five metres between the proposed store building and the property boundary to the north.

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

Reason: In the interest of visual and residential amenity.

3. Delivery times shall be restricted to between 08.00 hours and 22.00 hours Monday to Saturday and between 10.00 hours and 22.00 hours on Sundays. No delivery activity of any kind shall take place outside these hours.

Reason: In the interest of residential amenity.

4. Details of the materials, colours, and textures of all the external finishes to the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Details of all signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Signage shall be bilingual (Irish and English) and comply with the requirements of Policy Objective GA 6 Signage within An Ghaeltacht and DM Standard 20: Shopfronts, as set out in the Galway County Development Plan 2022-2028.

Reason: In the interest of the visual amenity of the area.

6. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety

7. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the development and where required, revised plans and particulars demonstrating compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

- (a) The details and the extent of all road markings and signage requirements on surrounding roads, shall be submitted to the Planning Authority for approval prior to the commencement of development.
- (b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (c) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings and car parking bays shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the planning authority for such road works.
- (d) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.
- (e) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

8. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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 and, in particular recyclable materials, in the interest of protecting the environment.

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. The construction of the development shall be managed in accordance with a Construction and Traffic 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:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;

(b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the

construction management plan shall have regard to guidance on the protection of fisheries during construction works prepared by Inland Fisheries Ireland.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

11. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the operational phase of the development.

Reason: In the interest of sustainable transport.

12. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the Planning Authority a detailed surface water design proposal that incorporates an element of Sustainable Urban Drainage System measures if feasible, such a report and/or drawings shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

13. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

Reason: In the interests of clarity and public health.

14. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground throughout the site.

Reason: In the interests of visual 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 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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Stephen Rhys Thomas
Senior Planning Inspector

10 November 2023