



An
Bord
Pleanála

Inspector's Report ABP-308410-20

Development

Planning permission is sought for the change of use of retail unit from permitted 'retail warehouse' use to 'convenience retail' (c772m²), internal alterations to the unit together with all other associated infrastructural and site development works.

Location

Unit 2, Monaghan Retail Park, Clones Road, County Monaghan.

Planning Authority

Monaghan County Council.

Planning Authority Reg. Ref.

20296.

Applicant

Barry Aughey.

Type of Application

Planning Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party

Appellant

Barry Aughey.

Observer(s)

None.

Date of Site Inspection

10th day of December, 2020.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site has a given site area of 0.254ha and it consists of a vacant retail unit with a given floor space of 772m² that is located within Monaghan Retail Park which is situated c2km to the west of Monaghan's historic town centre.
- 1.2. Access to the principal frontage of this vacant retail unit is via a shared entrance that opens onto the northern side of the N54, c133m to the west of its junction with the heavily trafficked R189. This entrance serves the Monaghan Retail Park and a vacant separate sit-down fast-food restaurant (Note: last previously used by KFC) that is served by its own standalone car park. The main retail park consists of three rows of warehouse type buildings, which contain the various units, all orientated in an east west direction aligning with the N54 and setback from the national road by an extensive car parking area, service road and some hard landscaping.
- 1.3. The southernmost warehouse building, in which the subject vacant retail unit is located, could be described as having an L-shape built form. With the subject unit being located the second from the westernmost end of the main warehouse building that addresses the N54. To the immediate west of it is a cinema (Omniplex) and to the immediate east of is a temporary shop (Smugglers Xmas Shop). At its nearest and most direct route the subject unit is located c224m by internal access road to the junction serving this retail park onto the N54.
- 1.4. The unit itself extends in a northerly direction where it is adjoined by an access/serving area that widens out at its cul-de-sac end. This area is unkempt and appears to be utilised by other retail units in the southernmost block as well as the multi-unit warehouse located in the middle of the aforementioned three warehouse buildings. This middle warehouse unit has a public frontage on its northern side only and access between the two buildings appears to be restricted to servicing, the storage of waste receptacles through to *ad hoc* car parking.
- 1.5. Photographs taken during my inspection of the site are attached.

2.0 Proposed Development

- 2.1.1. Planning permission is sought for the change of use of Unit 2, Monaghan Retail Park from the existing permitted 'retail warehouse' use to 'convenience retail' (c772m²);

internal alterations to provide for storage together with ancillary office/staff facilities. The proposed development also includes the provision of 1 no. trolley shelter; plant facilities to the rear of Unit 2 (c37m²), provision of signage; 1 no. window to the front façade of Unit 2; amendments to the rear façade; and, all other associated infrastructural as well as site development works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to **refuse** planning permission for the proposed development for the following stated reasons:

“1. *The site of the proposed development is on lands zoned within the Settlement Plan for Monaghan Town 2019-2025 as Existing Commercial, the land use objective of which is set out within Table 9.1 of the Monaghan County Development Plan 2019-2025 as “to provide for established commercial development and facilitate appropriate expansion. Principal permitted uses shall be related to the existing established commercial use on site. Redevelopment and expansion of existing commercial uses may be permitted on these lands.” The existing established commercial use on the site is retail warehousing and the proposed development seeks to change the use of the subject unit from retail warehousing to convenience retail. Table 9.3 of the Monaghan County Development Plan 2019-2025 indicates that convenience retail use on lands zoned as Existing Commercial is “open to consideration” but only where “its nature and scale would not be in conflict with the primary zoning objective for the area subject to the proper planning and sustainable development.” Objective SHO 1 of the Monaghan County Development Plan 2019-2025 seeks “to facilitate the development of Monaghan to maintain its position as the principal town in the County at the top of the settlement hierarchy and to ensure that its expansion takes place in an orderly and sustainable fashion that will not detract from the vitality and viability of the town centre”, while Objective TCO 1 seeks to “promote and develop the town centres as the principal location for retail, office, leisure, entertainment, cultural and service uses and to encourage the refurbishment, renewal and re-use of existing*

buildings and derelict sites within it”, and Objective TCO 3 seeks to “promote the vitality and viability of the town centres by prohibiting, except in exceptional circumstances, the location of town centre uses such as financial institutions, offices etc outside the designated town centres.” It is considered that the permitting of a convenience retail unit of the scale proposed outside the designated town centre of Monaghan Town would be contrary to Objectives TCO 3, TCO 1 and SHO 1 of the Monaghan County Development Plan 2019-2025, would thus be contrary to the relevant land use objectives of the development plan, would set an undesirable precedent, and therefore would be contrary to the proper planning and sustainable development of the area.

2. *Policy RTP 1 of the Monaghan County Development Plan 2019-2025 seeks “to ensure the orderly development of future retail development in County Monaghan”, Policy RTP 2 of the Monaghan County Development Plan 2019-2025 seeks to “support the vitality and viability of existing town and village centres”, Policy RTP 3 of the Monaghan County Development Plan 2019-2025 and Policy 2 of the County Monaghan Retail Strategy 2016-2022 seek to “assess all retail planning applications against the criteria set down in the County Monaghan Retail Development Strategy 2016-2022 and the Retail Planning Guidelines for Planning Authorities 2012 (and the accompanying Retail Design Manual)”, whilst Policy RTP 5 of the Monaghan County Development Plan 2019-2025 states that “the preferred location for large scale retail developments is in town centres, with an explicit presumption against large out of town retail centres, in particular, those located adjacent or close to existing, new or planned national roads. Alternative locations will only be considered in accordance with the Sequential Test, as required under the Retail Planning Guidelines for Planning Authorities 2012”. In addition, Objective SRO 2 of the Monaghan County Development Plan 2019-2025 seeks to “Prohibit the location of retail development outside the town centres unless where it is compliant with the policies as laid out in the County Monaghan Retail Strategy 2016-2022 (and any subsequent strategy), and the DECLG Retail Planning Guidelines for Planning Authorities (and any subsequent guidelines)”. Having regard to the out of town centre location of the proposed development and the failure of the applicant to carry out a sequential test to justify the acceptability*

of the proposed development at this location, the Planning Authority considers that the proposed development by reason of its nature and location, would adversely affect the vitality and viability of the existing town centre. Therefore, the proposed development if permitted, would be contrary to the policies and objectives of the Retail Planning Guidelines for Planning Authorities 2012, the Monaghan County Development Plan 2019-2025 and the County Monaghan Retail Strategy 2016-2022, would set an undesirable precedent, and thus would be contrary to the proper planning and sustainable development of the area.

3. *Having regard to the planning history pertaining to the subject site, it is considered that the development, if permitted, would materially contravene specific conditions attached to same, and in particular planning permission reference 04/112, which specifically stipulates that the floorspace “shall be used only for the retail sale and ancillary storage of bulky goods”. It is therefore considered that the proposed development if permitted, would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officer’s report** is the basis of the Planning Authority’s decision. It includes the following:

- A summary of the site’s extensive planning history is given with this dating back to the parent permission P.A. Ref. No. 01/536 under which permission was granted for 26 retail light industrial units.
- Reference is made to current enforcement relating to non-compliance with a number of conditions attached to P.A. 05/978.
- An overview of local through national planning provisions considered relevant to this application is provided.
- The location of the site is deemed to be an ‘out of centre’ site.
- No sequential test has been carried out.
- The issue of vacancy within the retail park is acknowledged.

- No justification provided for the introduction of a convenience retail use out of centre in a Tier 1 settlement.
- The applicant's definition of bulk goods is contrary to that given in the Retail Planning Guidelines, 2012.
- The proposed use is convenience retail and will compete in that retail sector.
- Previous grants of permission sought to prevent such proposals and to permit the proposed development would be in conflict with the primary grant of permission which sought to restrict the type and range of goods to be sold to bulky/heavy goods and exclude convenience shopping.
- Units 9 and 10 of this retail park are currently operating as convenience retail units in an unauthorised capacity and enforcement action is on-going. Whilst this is not relevant to this application it is nonetheless considered that to permit this development would set an undesirable precedent for further similar types of developments on the area such as the unauthorised uses which in turn could incrementally be adverse to the vitality and viability of the town centre.
- The car parking area associated with this application indicates a total of 34 car parking space, but the Development Plan would require a total of 52 car parking spaces for this development. No additional car parking is proposed within the retail park to accommodate this additional demand. It is therefore considered that the existing car parking may not be sufficient.
- An Appropriate Assessment is made.
- This report concludes with a recommendation of refusal.

3.2.2. Other Technical Reports

Water: No objection, subject to safeguards.

Roads: No objection, subject to safeguards.

Environment: No objection, subject to safeguards. However, I note that this report indicates that the site is located on a regionally important aquifer and on an area of high groundwater vulnerability with the receiving waters currently classified as being in a 'poor' status.

District Office: No objection, subject to safeguards.

Fire: No objection, subject to safeguards.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection, subject to safeguards.

3.4. Third Party Observations

3.4.1. During the course of the Planning Authority's determination of this application it received one third party submission objecting to the proposed development. This submission included the following comments:

- Proposed development is not consistent with the parent permission.
- Proposed development is not consistent with National Retail Guidelines.
- Proposed development fails to address previous grounds for refusing similar development at this retail park.
- Considering the site's peripheral location on the edge of the town and the potential impact on existing retail offer, the sequential approach to the location of this development should have been applied.

4.0 Planning History

4.1. Relevant Site:

P.A. Ref. No. 01/536: Planning permission was **granted** subject to conditions for 26 retail light industrial units.

P.A. Ref. No. 02/571: Planning permission was **granted** subject to conditions for facilitating works for the construction of 25 retail light industrial units.

P.A. Ref. No. 04/112: Planning permission was **granted** for amendments to P.A. Ref. No. 02/571 to include 1 retail warehousing structure in 10 units of various sizes. This includes Unit 2 the subject of this application and conditions included that the retail warehousing floorspace be restricted to bulky goods only.

P.A. Ref. No. 05/978: Planning permission was **granted** for amendments to P.A. Ref No.s 02/571 and 04/112. In addition, retention permission was also **granted** for retail

warehousing structure, external garden centre, a light industrial structure comprising 11 units and a number of other associated works.

P.A. Ref. No. 09/320: Planning permission was **refused** for the amalgamation and change of use of Unit 9 & 10 from retail warehousing to licenced discount food store.

P.A. Ref. No. 10/36: Planning permission was **refused** for the amalgamation and change of use of Unit 9 & 10 from retail warehousing to licensed discount food store.

P.A. Ref. No. 10/425: This application sought planning permission for the change of use and amalgamation of Units 9 & 10 from retail warehousing to convenience retailing as well as planning permission for the change of use of Unit 1 to a cinema and recreation/leisure use. The **change of use pertaining to Units 9 & 10 was refused** whereas the change of use of Unit 1 was permitted subject to conditions.

Note: A more extensive planning history of this retail park going back to the parent permission is provided by the Planning Authority's Planning Officer in their report as well as in a pouch attached to this file.

5.0 Policy & Context

5.1. Local Planning Provisions

5.1.1. Development Plan

The Monaghan County Development Plan, 2019 to 2025, is the applicable Development Plan, under which the site forms part of a larger parcel of land that is zoned '*Existing Commercial*'. This zoning objective seeks to provide for established commercial development and facilitate appropriate expansion. Principal permitted uses shall be related to the existing established commercial use on site. Redevelopment and expansion of existing commercial uses may be permitted on these lands. Open for consideration uses include convenience retail land use.

Chapter 2 of this plan identifies Monaghan town as a 'Tier 1 (County Town)' and indicates that it will be promoted as the primary growth centre for industrial development, as the primary retail and service.

The core retail area of Monaghan Town is located c2km from the subject site.

In relation to such areas, section 4.4.3 notes the objective of the Retail Planning Guidelines to ensure the retention of activity within the main retail centres or core areas at the expense of more peripheral edge of centre or out of centre locations.

It indicates that core areas are the most suitable locations for high-order and comparison goods. As such town centres are assumed as the core retail areas.

Relevant 'Retail' and 'Retail Related' policies include:

- RTP 1: Seeks in part to ensure the orderly retail development.
- RTP 2: Sees to support the vitality and viability of existing town and village centres alongside facilitating a competitive and healthy retail environment.
- RTP 4: Seeks to direct retail development to serviced areas to reinforce the role and function of the core retail areas.
- RTP 5: Indicates that the preferred location for large retail developments is in the town centres. It indicates a presumption against large out of town retail centres, in, those located adjacent or close to existing, new, or planned national roads and alternative locations will only be considered in accordance with the Sequential Test as required under the Retail Planning Guidelines.
- RTP 6: Seeks to promote and encourage the enhancement of retail floorspaces and town centre functions in order to reduce retail expenditure leakage out of the County and to sustain competitiveness of retail centres in the County.
- SRO 2: Prohibits the location of retail development outside the town centres unless where it is compliant with the policies as laid out in the County Monaghan Retail Strategy, 2016 to 2022; and the Retail Planning Guidelines for Planning Authorities (and any subsequent updated local through to national retail provisions).
- SRO 3: Encourages the provision of a wider range of convenience and comparison goods in the town centre.

5.1.2. **County Monaghan Retail Strategy, 2016 to 2022.**

The County Monaghan Retail Strategy, 2016 to 2022, was adopted as a Variation to the Monaghan County Development Plan, 2013 to 2019. Monaghan is designated as a *'Level 1 – Hub Town and County Centre'* within this strategy document.

This document also indicates a preferred location for large scale retail developments in the town centre with a specific presumption against large out of town retail centres in particular those located in proximity to national routes.

It further indicates that where retail development is proposed at such locations than only in exceptional circumstances where the applicant can demonstrate to the satisfaction of the Planning Authority that there are no other sites or potential sites within the town centre that are suitable, available, and viable will such locations be considered.

5.2. Regional Planning Context

5.2.1. Border Regional Planning Guidelines, 2010-2022.

This Regional Planning Guideline document provides planning policy context for the six counties of Cavan, Donegal, Leitrim, Louth, Monaghan, and Sligo. Of note within its policy framework it seeks to direct new retail floor space into Gateways and Hubs as well as seeks that retail developments within the Border Region be consistent with the policies and recommendations of the Retail Planning Guidelines for Planning Authorities (Note: ESP 14).

5.3. National Planning Provisions

5.3.1. Guidelines for Planning Authorities, Retail Planning, 2012.

Key policy objectives include ensuring that retail development is plan-led and promotes city/town centre vitality through a sequential approach to development. It also advises that applications relating to large-scale out of town retail developments, that these be accompanied by a transport assessment showing how trips to and from the proposed development might affect the road network and public transport links.

In relation to Retail Parks and Retail Warehouses it indicates that these have emerged as agglomerations of retail warehouses grouped around a common car park selling mainly bulk household goods. These require extensive areas of showroom space often with minimum storage requirements and that substantial proportion of their

customers drive away with goods purchased in the boot of their car, on a roof rack, or in a van with some warehouse operators able to arrange home delivery.

It further indicates that these retail warehouse operations do not fit easily into town centres given their size requirements, need for good car parking and ease of servicing. It indicates that generally planned retail parks do not have any material impact on town centres provided that the range of goods is limited to bulky household goods or goods generally sold in bulk.

It also further indicates that where the range of goods sold from retail warehouse parks extends to the type of non-bulky durables which is more typically retailed from town centres then there is much more potential for an adverse impact on a nearby town centre.

Where permission is sought for a floorspace in excess of 100m², the sequential approach to retail development shall apply.

Definitions:

Net Retail Floorspace - The area within the shop or store which is visible to the public and to which the public has access including fitting rooms, checkouts, the area in front of checkouts, serving counters and the area behind used by serving staff, areas occupied by retail concessionaires, customer service areas, and internal lobbies in which goods are displayed, but excluding storage areas, circulation space to which the public does not have access to, cafes, and customer toilets.

Out-of-centre - A location that is clearly separate from a town centre but within the urban area, including programmed extensions to the urban area in approved or adopted development plans.

Convenience goods - Include food, alcoholic and non-alcoholic beverages.

Bulky goods - Goods generally sold from retail warehouses where DIY goods or goods such as flatpack furniture are of such a size that they would normally be taken away by car and not be manageable by customers travelling by foot, cycle, or bus, or that large floor areas would be required to display them e.g., furniture in room sets, or not large individually, but part of a collective purchase which would be bulky e.g., wallpaper, paint.

5.4. Natural Heritage Designations

5.4.1. The appeal site is not designated for any nature conservation purposes nor does it adjoin or is it located in the vicinity of any site designated for nature conservation purposes. The closest European Site is Slieve Beagh SPA (Site Code: 004167). At its nearest point, this SPA is located c11.5km north west of the site. There is no direct hydrological connection between the appeal site and any designated conservation site.

5.5. EIA Screening

5.5.1. The proposed development sought under this application is comprised of minor amendments to an existing retail unit within an existing Retail Park on serviced lands located on the western outskirts of Monaghan town. Having regard to the limited nature, scale and extent of the development proposed; the absence of any significant environmental and/or ecological sensitivity in the vicinity and/or wider setting, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of this First Party appeal can be summarised as follows:

- The site forms part of a long-established retail centre that has never operated at full capacity, notwithstanding attempts by the applicant to rejuvenate it.
- The applicant seeks to cater for a frozen food's operator within the subject unit.
- The nature of the goods sold by a frozen food retailer means that while 'convenient retail' would be the correct land-use definition for the proposed operation, the majority of its customers would be expected to visit by car given the nature of frozen foods with such items typically being bought in bulk and necessitating getting the goods home prior to thawing.
- The change of use sought is open for consideration on these lands.

- A small-scale proposal that regenerates Monaghan Retail Park is in their view an exceptional circumstance.
- The proposed development would not be contrary to planning provisions and it is not accepted that it would materially contravene any previous grants of permission.
- It is anticipated that this development would act as a catalyst for increased tenancy rates within this retail park.
- The proposed development will be limited to the provision of plant facilities measuring c37.4m².
- The proposed frozen foods store will operate from a net retail area of 547m², i.e., 71% net-to-gross ratio.
- Reference is given to the inspectors report in the Board's decision ABP Ref. No. PL77.241104. It is considered that this may act as a precedent for this current case before the Board and the Board is invited to grant the proposed development subject to the same conditions.
- An examination of the planning history of the site is given and it is noted that this application retails to a smaller in scale food store as well as since these decisions were made discount food stores are no longer assessed as a 'specialist' type of development as they were in the previous iteration of the Retail Planning Guidelines, 2005.
- The Retail Impact Assessment submitted with this application considers that the retail impact on individual retailers and the town centre as a whole will be minimal as well as off-set by expenditure growth over the assessment period.
- The Retail Planning Guidelines provides that sequential assessment is not required in cases such as the proposed development and they are only required for change of use applications that are of a scale that will have a significant impact on the role and function of a town or city centre.
- The site's location is on the edge of the town and concern is raised that this is contrary to the out-of-town centre location referenced in the Planning Authority's decision notification.

- The proposed change of use will result in a retail operation which focuses on the provision of frozen food items which is a type of outlet not currently operational in County Monaghan at present.
- This development would be consistent with regeneration of land.
- The County Monaghan Retail Strategy establishes a threshold for the requirement of a Retail Impact Assessment for developments in excess of 1,000m². Notwithstanding one was prepared and submitted with this application in the interest of thoroughness. This assessment concludes that there is sufficient headroom to support the proposed development without incurring any significant impact on the vitality or viability of any neighbouring centre.
- The introduction of a frozen food retailer would add to the retail offer within the town and wider area as well as would contribute to the County's retail floorspace target.
- The third-party submission fails to take account of the wider benefits of the regeneration of this retail park nor does it acknowledge the retail difficulties encountered since the parent permission was granted.
- The proposed development is justifiable given the high vacancy rate and the trips that would be generated by it would be comparable to those generated by a retail warehouse.
- The applicant is attempting to revitalise this retail park in the face of exceptionally difficult trading circumstances in the Border Region.

6.2. **Planning Authority Response**

6.2.1. None received.

7.0 **Assessment**

7.1. **Introduction**

7.1.1. Having regard to the nature and scale of development proposed in this planning application and having reviewed all documents on file, I consider that the relevant matters under which to consider this appeal are as follows:

- Principle of the Proposed Development & Planning History
- Retail Impact & Compliance with Planning Provisions
- Access and Parking
- Visual Impacts
- Precedence Case

7.1.2. The matter of 'Appropriate Assessment' also requires assessment.

7.2. Principle of the Proposed Development and Planning History

7.2.1. The appeal site forms part of a larger parcel of land that is zoned 'Existing Commercial' under the Development Plan. The stated land use objective for such lands is: "to provide for established commercial development and facilitate appropriate expansion".

7.2.2. In addition, the Development Plan indicates that the principal permitted uses within this land use zone shall be related to the existing established commercial use on the site. Therefore, of particular relevance to the development sought under this planning application is the planning history of the site, particularly the grant of planning permission P.A. Ref. No. 02/571. Under this grant of planning permission for facilitating works for the construction of 25 retail light industrial units at this location there was a number of conditions attached including Condition No. 1. This particular condition reads as follows:

"The floor space comprised in the retail warehousing shall be used only for the retail sale and ancillary storage of bulky goods as detailed in Retail Planning Guidelines for Planning Authorities (DOELG December 2000) i.e. goods that are such a size that they would normally be taken away by car and not be manageable by customers travelling by foot, cycle or bus, or that large floor areas would be required to display them, or, if not large individually, part of a collective purchase which would be bulky. The retail warehousing units shall be used only for the retail sale and ancillary storage of the items listed hereunder and for no other purposes without a prior grant of permission from the Planning Authority.

- (i) *DIY materials, products and equipment;*
- (ii) *Garden materials, plant and equipment;*
- (iii) *Furniture and soft furnishings, carpets, and floor coverings;*

- (iv) *Electrical Goods;*
- (v) *Such other items as may be determined in writing by the Planning Authority as generally falling within the category of “bulky goods”.*

7.2.3. While I am cognisant that the referred to guidance has been updated since it is clear that the type of retail sought under this application does not include that which is permitted to be carried out within the retail units approved.

7.2.4. Further, when regard is had to the updated Retail Planning Guidelines it is of note that ‘bulky goods’ are defined as: “goods generally sold from retail warehouses where DIY goods or goods such as flatpack furniture are of such a size that they would normally be taken away by car and not be manageable by customers travelling by foot, cycle or bus, or that large floor areas would be required to display them e.g. furniture in room sets, or not large individually, but part of a collective purchase which would be bulky e.g. wallpaper, paint”. Whereas ‘convenience goods’ are defined under these Guidelines as including: “food, alcoholic and non-alcoholic beverages”.

7.2.5. Moreover, under the grant of planning permission P.A. Ref. No. 04/112 amendments were approved to the previously referred to grant of permission (Note: P.A. Ref. No. 02/571) to include 1 retail warehousing structure in 10 units of various sizes. This includes Unit 2, which is the subject of this current application. Again, the conditions attached to the grant of planning permission included that the retail warehousing floorspace be restricted to ‘bulky goods’ only. With this grant of permission essentially reiterating Condition No. 1 of P.A. Ref. No. 02/571 in its Condition No. 1. Moreover, Condition No. 3 required the details regarding the specific use of the proposed retail warehouse units to be submitted to and agreed in ‘writing’ by the Planning Authority prior to occupation of each unit.

7.2.6. Having regard to the retail use as described under this application and in the applicants accompanying document as the ‘provision of frozen food for convenience purchase’; ‘frozen food retail’ through to the subject retailer ‘focuses on the provision of frozen food items’ I consider that the type of retail sought falls under the definition of convenience goods.

7.2.7. Thus, when regard is had to what are arguably the parent permissions relating to the subject unit it is clear that the type of retail use now applied for is not one that is deemed to be permissible nor is it a type of retail that could be deemed to fall under

that outlined under Condition No. 1 in both P.A. Ref. No. 02/571 and P.A. Ref. No. 04/112 and as such it is not a type of retail use that could be simply submitted to and agreed in writing by the Planning Authority prior to occupation.

- 7.2.8. Arguably there is merit in the Planning Authority's considerations to refuse permission for the proposed development based upon the fact that to grant permission for it would be contrary to Condition No. 1 of P.A. Ref. No. 02/571 and P.A. Ref. No. 04/112.
- 7.2.9. Despite this I am cognisant that land zoned 'Existing Commercial' under the Development Plan, in terms of land use indicates that redevelopment and expansion of existing commercial uses may be permitted on these lands. Arguably the change of use sought under this application could be considered as redevelopment and expansion of existing commercial uses on the subject lands. In addition, having regard to the permitted land use of the subject vacant unit for 'retail warehouse' to 'convenience retail' the land use zoning matrix set out in the applicable Development Plan lists 'convenience retail' as a type of land use that is 'open for consideration' on lands zoned 'Existing Commercial'.
- 7.2.10. Moreover, the applicable Development Plan defines uses 'open to consideration' as one that by reason of their nature and scale would not be in conflict with the primary zoning objective for the area subject to the proper planning and sustainable development of the area.
- 7.2.11. Of concern, however, is the planning history of the retail park subsequent to the parent grants of permission referred to above. An examination of the extensive planning history of the site going back over a decade ago to the refusal of planning permission for the amalgamation and change of use of Unit 9 and 10 from retail warehousing (Note: given floor area of 1,547m²) to licensed discount food store (Note: P.A. Ref. No. 09/320) was refused for four reasons.
- 7.2.12. The first reason of refusal essentially considered that excessive level of retail hierarchy in contravention of the Planning Authority's Retail Strategy and the approved retail hierarchy for the County in excess of the needs of the town.
- 7.2.13. In addition to this the second reason for refusal considered that the proposed development had not adhered to the required under local through to national sequential test alongside it was considered that, if permitted, it would have an adverse impact on the vitality and viability of the existing Monaghan Town Centre. In tandem

with this it was considered that out of centre sites would only be considered when the sequential test approach has been satisfactorily exhausted. It was also considered that by reason of its scale and nature, incorporating significant convenience floor space, the proposed development would conflict both local and national retail guidelines as well as would adversely impact on the viability and vitality of the Monaghan Town centre.

- 7.2.14. The final reason for refusal essentially considered that there was insufficient car parking for private vehicles within the curtilage of the retail park and as such of concern, if permitted, the proposed development would result in parking of vehicles on the roadside which would be prejudicial to public safety by reason of traffic hazard.
- 7.2.15. An application for the amalgamation and change of use of Unit 9 and 10 from retail warehousing to licensed discount food store under P.A. Ref. No. 10/36 was refused for similar reasons, i.e., contrary to local through to national planning provisions, sequential test, and lack of car parking. In terms of this application, I note that it had a gross floor area of 1,547m² (Net 1,125m²).
- 7.2.16. Under P.A. Ref. No. 10/425 the amalgamation of units 9 and 10 as well as its change of use to a licensed discount food store was again refused for similar reasons as P.A. Ref. No. 10/36 and P.A. Ref. No. 09/320. In terms of the gross floor area of retail relating to units 9 and 10 was given as 1,538m².
- 7.2.17. Between this and the current application before the Board there are no relevant planning applications.
- 7.2.18. Having regard to the planning history of the site there is a precedent for the type of development, i.e., convenience retail, to be refused.
- 7.2.19. I therefore consider that the general principle of the development in this instance is not acceptable but given the fact that convenience retail is 'open for consideration' the Board may wish to assess it on its merits.

7.3. Retail Impact and Compliance with Development Plan

- 7.3.1. There is merit for finding a viable, site appropriate and synergistic use for the subject vacant unit that aligns in a positive manner with local through to national planning provisions alongside that such a use does not diminish further the retail heart of Monaghan town, which unfortunately suffers from high levels of vacancy in its historic

town centre as well as leakage to larger retail provisions provided outside of the town centre. In doing so this could incrementally help to improve the vitality and vibrancy of the Monaghan Retail Park which as observed from the public domain suffers from the lack of viable uses particular in terms of its frontage facing onto National Route, N54. Within the curtilage of the retail park itself, the principal frontage of the main retail warehouse lacks vibrancy and activation of its retail units due to vacancy as well as lack of retail offer and upon entry into the retail park itself the vacant as well as unkempt state of the standalone fast-food outlet does not contribute to it being an attractive place to shop.

- 7.3.2. Planning policy provisions local through to national in unison with one another seek to protect and enhance the vitality and viability of the town centres within the established retail hierarchy. The County Retail Strategy sets out a sequential approach to retail development within its retail hierarchy. This approach is in keeping with Objective SHO 1 of the applicable Development Plan which seeks to facilitate the development of Monaghan to maintain its position as the principal town within the County, with it being at the top of the settlement hierarchy also. As such it seeks that expansion shall occur in an orderly and sustainable fashion alongside in a manner that does not detract from the vitality as well as vibrancy of the town centre.
- 7.3.3. Further to this there are several other Development Plan provisions that also seek to promote the primacy of the town centre for retail, for example Objective TCO 3, Policy RTP 2 through to Policy RTP 5 which clearly indicates the preferred location of large-scale retail developments is within the town centre. The latter policy also sets out a presumption against large out of town retail centres, including those adjacent to or close to existing national routes and that consideration for such developments will be considered in accordance with the Sequential Test as set out under the Retail Planning Guidelines for Planning Authorities, 2012. In addition, Policy RLP1 also indicates that such applications will be assessed against the criteria set out under the County's Retail Strategy.
- 7.3.4. I am cognisant that the County's Retail Strategy and the Retail Planning Guidelines encourage developments like that proposed under this application to be located within town centres. I am also cognisant that Policy 4 of the County's Retail Strategy indicates that there will be an explicit presumption against large out of town retail centres. Arguably this is also consistent with the National Planning Framework which

seeks compact and sustainable growth as it recognises that the physical format of urban development in Ireland is one the nation's greatest national development challenges as it recognised that the fastest growing areas are at the edges of and outside of our cities and towns with this resulting in high levels of car dependency through to the gradual process of city and town centres becoming increasingly run-down with retail moving out with this diminishing the vibrancy of such places (Note: Section 2.6).

- 7.3.5. Section 5.5 of the County Retail Strategy sets out the criteria under which future retail development planning applications for significant retail development are assessed and it refers to the Retail Planning Guidelines for Planning Authorities in this regard. It therefore sets out that the main planning considerations for retail development are: 1) location; 2) suitability of use; 3) size and scale (impact, form, and design) and accessibility (access and servicing arrangements).
- 7.3.6. In relation to these criteria the location of the retail park is out of town centre and is located c2km from the historic retail core of Monaghan town. As such, the general principle of this site remote from the town centre whether one wishes to refer to its location as 'out of centre' or 'edge of town' as is contended is the case by the appellant and as is indicated within the content of the County's Retail Strategy itself, irrespective of this, the appeal site is not a preferred location for such a retail land use and is open for consideration on its planning merits.
- 7.3.7. No sequential assessment has been conducted as part of the initial suite of documents accompanying this application or indeed submitted with this appeal. I note; however, that in the appellants opinion such an assessment is not required under a change of use application like this as it is not of a significant scale to impact upon the role as well as function of the town centre. Alongside this they contend that the retail offer is not one that is currently provided for within the town or indeed the county itself.
- 7.3.8. However, under local planning provisions, in such situations where the location of the retail development is not within the existing town centre and not according with the retail hierarchy it seeks demonstrated compliance with the sequential approach alongside the provision of a Retail Impact Assessment and in some situations a Traffic Impact Assessment. This is clearly set out under Section 5.5 of the County Retail

Strategy with this strategy also making it clear that retail developments outside of the town centre will be only permitted in exceptional circumstances.

- 7.3.9. Having regard to the local planning provisions the suitability of the use at this vacant unit is not only questionable in terms of the land uses permitted and not permitted by the extensive planning history of the site; the fact that there are not only specific objectives that seek to channel retail development into the town centre but also Policy 4 of the County Retail Strategy and policy RTP 5 of the Development Plan that sets out an explicit presumption of such developments adjacent to or close to national roads. In this regard I note that the development would be served by a shared entrance onto a heavily trafficked National Road (N54) and by a shared car parking area that is deficient in its number to accommodate the additional car parking spaces this type of change of use, if permitted, would require. This therefore could have the potential in future subject to all vacant units being occupied result in an overspill for car parking which in turn could result in additional traffic hazards for road users, including by way of on road parking on a national road.
- 7.3.10. Taking these factors into account the existing retail park therefore does not have the latent capacity to absorb a retail development of the scale and size proposed nor would the proposed retail development be one that could be considered to be appropriately accessible as it would be poorly served in terms of parking, with this in itself putting strain on the existing access and parking serving this retail park development.
- 7.3.11. Whilst the applicants circumstance maybe considered as exceptional circumstance for them and while I agree that it is desirable that the vacancy levels present in this retail park is addressed but in an appropriate and sustainable manner, the appellants circumstance is not one that is of sufficient merit to override the local through to national planning provisions for retail development that advocate supporting, protecting, enhancing through to promoting retail cores like that of Monaghan's town centre and ensuring that this is done in a sequential, coordinated and transparent manner so as to ensure facilitating a competitive and health retail environment that responds to the identified retail hierarchy. The documentation provided with this application does not support that the proposed development has demonstrated that there are no other sites or potential sites either within the town centre and/or at a closer proximity to the town centre, including brownfield sites that are more accessible than

also may synergise in a more harmonious manner with other convenience retail offers than the site chosen.

7.3.12. Moreover, given the limited overview of the retail offer of the frozen food convenience retail offer for which this change of use is proposed to facilitate I am not convinced that the documentation submitted has provided sufficient and robust assurance that this retailer though focusing on the provision of frozen foods would be doing so in a manner that is different from other convenience food stores within this town, many of which have significant nett floorspace within which significant areas are dedicated towards the sale of various arrays of frozen foods.

7.3.13. Based on these considerations the absence of a Sequential Assessment and also the provision of a Traffic Assessment are fundamental flaws in the documentation submitted with this application. I consider that their absence is particularly contrary to the local planning provisions and I am of the view based on the information provided that to permit the proposed development would be contrary to the County's Retail Strategy and the County Development Plan, with both of these documents setting out provisions for retail development that are consistent with the Retail Planning Guidelines. I therefore consider to permit the proposed development would be contrary to Objective SHO 1; Objective TCO 1; Objective TCO 3; Objective SRO 2; Policy RTP 2; Policy RTP 5 and Policy RLP 1 of the Development Plan on the basis that the proposed settlement fails to comply with the retail strategy for the County and if permitted, it has the potential to diminish the vitality and vibrancy of Monaghan's retail core in an adverse manner as well as has the potential to result in road safety and traffic hazard for road users using the adjoining National Road as well as the internal access roads within this retail park by way of overspill of car parking.

7.4. Access and Parking

7.4.1. Unit No. 2, which is the subject of this appeal forms part of a permitted retail park located off the N54, national route, on the south western outskirts of Monaghan town and circa 3km from its historic centre. Whilst the proposed works consist by and large of internal works to facilitate the proposed change of use the type of retail use now proposed would require an additional 22 car parking spaces in compliance with the County Development with this figure including the loss of existing car parking spaces to facilitate the provision of two proposed trolley bays included in the submitted plans.

- 7.4.2. Of concern no additional car parking spaces are proposed in the vicinity of Unit 2 or indeed elsewhere within the retail park. Moreover, during my inspection of the site I observed that the retail car park despite the presence of vacant units and it being a period of time where the country is battling a pandemic it was nonetheless busy as was the junction serving it onto the N54, national road.
- 7.4.3. It is probable that the lead up to Christmas also added to the significant car parking volumes observed on that day with there being unit in temporary use for the sale of Christmas related goods (Smugglers Xmas Shop).
- 7.4.4. In addition, to this the 'Homesavers' store which is located upon entry into the principal warehouse block which addresses the N54 and which Unit 2 forms part of I observed was extremely busy with this store appearing to attract a high turn over of customers with the car parking area within its vicinity full. Whereas the units located in the rear warehouse buildings appeared not to generate a large volume and/or turnover of vehicles.
- 7.4.5. I therefore raise a concern that not only does the proposed development not seek to provide the quantum of car parking the type of retail change of use would require. Arguably Unit 2 is remote in terms of walking to the less quiet parts of this retail park. It is also probable that it would not be practical in most instances for customers of the proposed retail convenience store proposed to move their purchases significant distances away from the store alongside return trolleys back to the area within the immediate vicinity of the subject unit.
- 7.4.6. Further, it would not be reasonable for the deficit of car parking to be made up by the quantum of car parking spaces associated with current vacant units as this would not be sustainable in the long term should this retail park reach capacity occupancy.
- 7.4.7. I am therefore not convinced based on the documentation provided that the deficiency in car parking the change of use, if permitted, would result in is consistent with local planning provisions and has the potential to result in an overspill of car parking generated within the retail park over and above that envisaged under the parent grant of permission which by and large sought that this retail park be used for the sale and ancillary storage of bulky goods.
- 7.4.8. In terms of access, Policy RTP 5 of the Development Plan states that: "*the preferred location for large scale retail developments is in town centres, with an explicit*

presumption against large out of town retail centres, in particular, those located adjacent or close to existing, new or planned national roads. Alternative locations will only be considered in accordance with the Sequential Test, as required under the Retail Planning Guidelines for Planning Authorities 2012”.

- 7.4.9. Not only would the proposed change of use result in there being a deficiency of 22 car parking spaces to serve users of this retail park, the additional car parking of convenience type retail would also result in a significant increase in usage of the retail parks existing access onto what is a heavily trafficked national road. Though this entrance benefits from a signalised junction there is limited setback between this access and the internal access road serving the retail warehouse block Unit 2 forms part of. Should planning permission be granted for convenience retail this could establish a precedent for other similar types of retail developments to also locate to this retail park which would put further pressure on this entrance onto a national road and could also result in congestion in vicinity of this entrance and the main spine serving the larger retail park Unit 2 forms part of.
- 7.4.10. In this case the applicant has not supported their application by way of a Sequential Test as part of justifying their location c3km outside of the main town centre. While there is merit in finding a viable use for Unit 2 so that it can contribute in its own right to vitality and vibrancy of this retail park arguably local through to national planning provisions seek a plan-led approach that promotes city/town centre vitality and vibrancy through a sequential approach to development. I therefore consider that to permit the proposed change of use sought would be contrary on this instance to Policy RTP 5 of the Development Plan.
- 7.4.11. In conclusion, based on the above considerations there is merit to refuse the proposed change of use based on the deficient car parking provision and for reasons relating to it being contrary to the said Development Plan provision.

7.5. Visual Impacts

- 7.5.1. Unit 2 forms part of an established retail park. In its current state it contains a single blocked up large window on its southern elevation fails. Its blocked-up state fails to provide any activation of this frontage and indeed the southern elevation of the warehouse building it forms part of. Relative to the nearby N54, which I note lies in close proximity to the south, the subject retail warehouse building occupies an

elevated position with a large expanse of car parking, internal access roads and some hard landscaping separating one another. As a result, this warehouse buildings southern frontage is highly visible from this national road. At the time of my site inspection its vacant state together with the similar vacant former KFC fast food restaurant diminished this retail parks appearance of vitality and vibrancy. Particularly as observed from the N54.

- 7.5.2. The provision of a viable use for this unit thus reversing its vacant state would undeniably have the potential to reverse this situation and I concur with the appellant in their appeal could potentially add to its attractiveness for other retail occupiers to locate to it.
- 7.5.3. In relation to the proposed changes sought not only would the functional land use change result in added vibrancy and vitality the addition of a new window opening to the southern elevation of this unit would add visual interest and further streetscape activation in what is outside of the cinema complex a warehouse building that is quite monotonous and homogenous in its built appearance.
- 7.5.4. The addition of signage, lighting, trolley bays through to the addition of new openings in the rear elevation are all types of alterations one would generally expect to such retail units within a retail park like this and subject to being of an acceptable standard are unlikely to result in any significant diminishment of the retail parks visual character.
- 7.5.5. Subject to conditions that deal with the specifics of signage and lighting I raise no substantive visual amenity impact concerns in relation to the development sought under this application

7.6. Precedence Case

- 7.6.1. The appellant in their grounds of appeal submission refers to a decision of the Board to grant permission for the change of use of a unit from retail warehousing to frozen food store at Cleverage Retail Park, Sligo, subject to conditions (Note: PL77.241104).
- 7.6.2. Whilst I consider it appropriate and in accordance with proper planning practice that all applications be assessed on their merits and whilst I note that this application related also to an existing retail warehouse unit of c695m², in this case referred too the food retailer was a specific and specialised frozen food limited company that would sell a limited range of primarily large pack bulky frozen goods for trade and also sought to sell at the proposed location to the public.

- 7.6.3. The retail unit proposed was to operate as a 'cash and carry' alongside the Cleverage Retail Park was located adjacent to the applicant's production and base of commercial operations at Cleverage Business Park. Of further note under a grant of permission by the Board under ABP Ref. No. PL77.239504 the applicant in this particular case was previously permitted a small-scale retail use at this Business Park. Under that appeal case the range of items indicated to be available for sale was also limited and would not serve daily goods food shopping requirements of a family. The Inspector in this appeal case did not consider in this case that it would have any undue impact on the city centre or other convenience shops that might exist in the locality.
- 7.6.4. Though the development considered by the Board under ABP Ref. No. PL77.241104 represented an increased scale and size of retail floor area for the applicant; notwithstanding, the frozen food retail offer provided form a cash and carry food store catering for large pack bulky foods to serve trade such as catering supplies but also open to the public is not the same as that proposed. As well as there is less transparency in the retail model and retail offer actually proposed despite the proposal finding a viable economic land use for a vacant retail unit within a retail park. Moreover, other issues that arise and have been discussed above including adequate parking; accessibility; compliance with relevant local planning provisions and the like were not deemed to be an issue at this location.
- 7.6.5. **Appropriate Assessment**
- 7.6.6. As set out under Section 5.4.1 above this appeal site does not form part of nor is it located in close proximity to any European sites, with the nearest being Special Protection Area: Slieve Beagh SPA (Site Code: 004167) which is located c11.5km to the north west, with no connection between the two.
- 7.6.7. The development sought under this application consists of very limited works with the majority of the works occurring to the inside of and the envelope of an existing serviced retail unit. The amendments to the surrounding area are also minimal consisting mainly of the provision of two trolley bays to an existing hard surfaced area that forms part of an existing retail park complex.
- 7.6.8. The change of use is unlikely to result in significant additional mains water and drainage needs over that of the units permitted retail warehouse use. Moreover, there does not appear to be any capacity issues and the towns wastewater treatment plant

is subject to licencing by the EPA who undertook AA screening of its operations concluding that significant effects on European sites could be excluded.

- 7.6.9. On the basis of information on file, which I consider adequate in order to issue a screening determination in this case, it is reasonable to conclude, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on the aforementioned European site or any other such sites in view of their conservation objectives. As such a Stage 2 Appropriate Assessment is not therefore required.

7.7. Other Matters Arising

- 7.7.1. **Material Contravention:** The Planning Authority's reasons for refusal refer to material contravention of various planning provisions and also refers to the material contravention of the grant of permission P.A. Ref. No. 04/112 which I note only permitted the retail sale and ancillary storage of bulky goods. In this instance having regard to the permitted land uses on lands zoned 'Existing Commercial' which sets out that the type of land use proposed is open for consideration based on safeguards I do not concur with the Planning Authority that the proposed development, if permitted, would result in any material contravention but rather would be contrary to local through to national planning provisions that seek plan led and compact development of towns like Monaghan with that including sequential development based on an established and set out retail hierarchy that in essences seeks to support the vitality and viability of existing town centres by ensuring that retail leakage does not occur as well as in so doing that town centre functions are strengthened and enhanced.

8.0 Recommendation

- 8.1. I recommend that permission is **refused** for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the location of the site within the established Monaghan Retail Park with an established as well as permitted use for the sale of bulky goods, the provisions of the Monaghan County Development Plan, 2019 to 2025; the County

Monaghan Retail Strategy, 2016 to 2022; together with the Retail Planning Guidelines for Planning Authorises, 2012 which in consistent manner seek plan led and sequential approach for retail developments in manner that protects as well as enhances the vitality as well as vibrancy of town centre locations like the retail core of Monaghan town and sets out a presumption against large scale retail development outside of town centres unless they are compliant with relevant local and national planning provisions. It is considered on the basis of the information provided, the Board is not satisfied that the proposed development is one that would be consistent with relevant local and national planning provisions, particularly those set out in the Development Plan including but not limited to Objective SHO 1 which seeks to promote and develop town centres as the principal location for retail uses; SRO 2 which prohibits the location of retail development outside town centre unless where it is compliant with the County's Retail Strategy and the Retail Planning Guidelines.

Further, in relation to the County's Retail Strategy in particular Policy 2 which seeks that retail planning applications demonstrate compliance with the criteria set out within the Development Plan and the Retail Planning Guidelines; and, Policy 4 which sets out that the preferred location for large scale retail developments is in the town centre with an explicit presumption against large out of town retail particularly those adjacent to national roads with such developments only be considered in accordance with sequential test as required under the Retail Planning Guidelines.

Moreover, the nature and scale of the convenience food store proposed is a type of use that is at variance with the permitted range of retail activities permitted at this retail park under P.A. Ref. No.s 02/571 and 04/112 alongside is a type of land use that can not be absorbed within the curtilage of this retail park given that there is insufficient car parking available to serve its additional needs. Therefore to permit such a development at this location could establish an undesirable precedent for other similar development; and, would crucially undermine the viability and vitality of the retail functions of the retail core of Monaghan town in a manner that would be contrary to the achievement of compact and plan led development. As such the proposed development would be contrary to the proper planning and sustainable development of the area.

2. The proposed development is located remote from the town centre and the proposed development would conflict with the retail objectives and policies the Monaghan County Development Plan, 2019 to 2025, which requires the planning authority to ensure that retail proposals for sites at such locations will only be considered where it can be demonstrated that there are no town centre or edge of centre sites that are suitable, viable and available in a manner consistent with the sequential test set out under the Retail Planning Guidelines for Planning Authorities, 2012, and with the County Monaghan Retail Strategy, 2016 to 2022. The Board is not satisfied, on the basis of the information submitted, that the proposed development that no alternative site, either located in the town centre or edge of town centre, was considered to be suitable. The proposed development would, therefore, conflict with the provisions of the Development Plan, which requires that applications for retail development in edge of town or out of town locations should be assessed against a range of criteria, including the sequential test and that this test shall be carried out in a realistic and defensible manner. The proposed development would, therefore, conflict with the policies of the development plan and be contrary to the proper planning and sustainable development of the area.

3. It is considered that the car parking provision for the proposed development and, in particular the lack of sufficient on-site car parking spaces, would be seriously deficient and would be inadequate to cater for the parking demand generated by the proposed development, thereby leading to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity, particularly the heavily trafficked N54 which serves Monaghan Retail Park, and which would tend to create additional traffic congestion by way of additional movements on the public road by way of overspill onto public road where there is no nearby street car parking and additional traffic movements. It is considered that the car parking provision for the proposed development taken together with the lack of any Traffic Assessment to allay these fears, that the proposed development would be seriously deficient in terms of car parking and would be inadequate to cater for the parking demand generated by it, thereby leading to conditions which

would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity.

Patricia-Marie Young
Planning Inspector

17th day of February, 2021.