



An
Bord
Pleanála

Inspector's Report ABP-309882-21

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| Development | Retention of certain aspects of Glencarn Shopping Centre and permission for the removal of condition No. 8 of planning permission Ref.04/40009 |
| Location | Glencarn Shopping Centre, Castleblayney, Co. Monaghan |
| Planning Authority | Monaghan County Council |
| Planning Authority Reg. Ref. | 2116 |
| Applicant(s) | Glencarn Holdings. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party |
| Appellant(s) | Glencarn Holdings. |
| Observer(s) | N/A. |
| Date of Site Inspection | 21 st of July 2021. |

Inspector

Stephanie Farrington

1.0 Site Location and Description

1.1. The appeal site is located within Glencarn Shopping Centre which is situated on the northern side of the Main Street in Castleblayney Co. Monaghan. Access to the shopping centre is provided via Main Street to the south and McGrath Road to the north. The development consists of retail units and residential units comprising a mix of apartments and town-houses. The surrounding area is mainly characterised by commercial and residential properties. The site is adjoined to the north, east and west by existing car parking which serves the development.

2.0 Proposed Development

2.1. The proposed development comprises permission for the following development at Glencarn Shopping Centre, Main Street, Castleblayney:

- Removal of Condition no. 8 of Planning permission 04/40009 which relates to a special development contribution as follows: *“Before the development is commenced the developer shall pay to Castleblayney Town Council a contribution of €500,752 towards the expenditure incurred or proposed to be incurred by the Council in the provision of car parking which will facilitate the proposed development. The method of payment of this contribution shall be agreed with the Planning Authority prior to the commencement of any work on this development”*.
- Retention of elevational changes to Glencarn Shopping Centre,
- Retention of external steel gantry servicing existing plant room,
- Retention of air conditioning units
- Retention of external signage and ancillary site development works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Monaghan County Council issued a notification of decision to refuse permission and retention permission for the proposal in accordance with the following reasons and considerations:

1. Policy CP 1 of the Monaghan County Development Plan 2019-2025 requires car parking to be provided in compliance with Table 5.6 Car Parking Standards of the Monaghan County Development Plan 2019-2025 and Policy CP 2 of the Development Plan requires developments that comprise more than one land use to comply with combined standards applicable. Based on the gross retail floor area and number of residential units within the development and the car parking requirements of the County Development Plan, a total of 505 car parking spaces are required for the development.

Under the General Contribution Scheme for County Monaghan 2013-2019 (as amended) the planning authority is empowered to attach a condition to any grant of planning permission requiring the payment of a contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority or that it is intended will be provided or have been provided by or on behalf of the local authority, regardless of other sources of funding. As no car parking spaces were proposed to be provided within the site, the planning authority granted planning permission for development on the basis that a development contribution would be paid by the developer to fund the provision of car parking in the area to serve the development.

As the existing car park referred to by the developer lies outside the boundary of the site, does not have the benefit of planning permission, is partly located outside the ownership/control of the applicant, and no legally binding agreement has been submitted to the planning authority to demonstrate the present and future use and accessibility of the car parking for use by the shopping centre and the residential units above, the planning authority cannot place any reliance on the existing car park in lieu of the development

contribution required to be paid by the developer under condition 8 of planning permission ref 04/40009.

Consequently, to permit the removal of the condition requiring the payment of car parking contributions in lieu of existing car parking without planning permission being in place to regularise these car parks and no legally binding agreement in place for the present and future use by the shopping centre and the residential units above, would effectively result in the development having no authorised car parking serving it. This would be contrary to the provisions of the Monaghan County Development Plan 2019-2025 and thus would be contrary to proper planning and sustainable development and set an undesirable precedent.

2. There are a number of residential properties both above the shopping centre and in the immediate vicinity of the shopping centre and the applicant has failed to demonstrate by way of an acoustic report that the air conditioning units would not result in an exceedance of the appropriate noise limits, particularly at night in respect of these residential properties. Therefore, to permit the development as proposed would be contrary to the residential amenity of the adjoining residential properties and would be contrary to the proper planning and sustainable development of the area.
3. It is noted that a number of other aspects of the shopping centre differ from that granted under the original planning permission with extra retail units and an office unit instead of a retail unit in operation and a number of conditions have not been complied with. The planning authority considers that the number of breaches of planning control are substantial and that it would not be in the interests of proper planning and sustainable development to permit some regularisation of non-compliant aspects of the development without fully addressing the entire non-compliance of the development. Therefore, to permit the development as proposed would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommends a refusal of permission and retention permission.

The following provides a summary of the key points raised:

- In terms of elevational changes and the proposed signage, it is stated that there are no objections.
- The steel gantry and air conditioning units do not appear to be within the red line of the site boundary.
- Given that there are residential properties both above the shopping centre and in the immediate vicinity of the shopping centre the applicant should demonstrate that the air conditioning units would not result in an exceedance of appropriate noise limits, particularly at night.
- Reference is made to the development contribution levied under Condition no 8 of PA Ref 04/40009. The applicant seeks to rely on upon unauthorised car parks as a justification for the removal of the Condition. The car parks were constructed over 7 years ago and are statute barred from enforcement action.
- To permit the removal of the Condition without permission being in place to regularise the car parks would result in the development having no car parking serving it. The proposal would be contrary to the provisions of successive development plans, both present (Monaghan County Development Plan 2019-2025) and the plan in force at the time of the grant of permission (Castleblayney Town Development Plan 1999).
- The ownership of the car parks is unclear. In this context the applicant, may have no control over their future use.
- Cross reference is made to the legal agreement submitted in support of the application. It is stated that this refers to a legal agreement in respect of Part V contributions and water supply/sewerage development contribution under Condition 11. The legal agreement is not with the applicant and the applicant is not in possession of the property.
- A shortfall of 283 car parking spaces to serve the development is identified.
- In relation to Condition 8 although a letter was issued stating the payment of this contribution was not necessary due to the provision of car parking space,

no planning application was ever received or permitted obtaining planning permission for the car parking provided.

- Reference is made to a number of other aspects of the development which differ from that permitted including an increase in the quantum of retail units and an office unit in place of a permitted retail unit.
- The report outlines that the following conditions of the parent permission do not appear to have been complied with:
 - C1: building line, C3 – Part V, C4-finishes, C10-refuse storage and disposal, C12 – storm water attenuation, C17 – change to office use not permitted, C18- housing name and numbering, C19 – public lighting within the development, C20- external lighting, C22 – development has not been carried out in accordance with plans and particulars.
- The planning authority considers that the number of breaches of planning control are substantial and that it would not be in the interest of proper planning and sustainable development to permit some regularisation of non-compliant aspects of the development without fully addressing the entire non-compliance of the development.
- Clarification of land ownership is required.
- The following AA Screening is undertaken: *It is the opinion of the planning authority therefore, that given the cumulative effects of both the proposed development and any other plan or project, the development is not of a nature or scale to have any significant effects on the integrity of the Natura 2000 network and therefore a Stage 2 Appropriate Assessment is not required.*

3.2.2. Other Technical Reports

Environmental Report: No objection to the proposal subject to condition.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

The appeal site has an extensive planning history. The following applications are of relevance.

- PA Ref: 04/40009 – Planning permission granted in October 2004 for redevelopment of the site to provide a 4 storey commercial building containing 12 no. retail units, a public bar, takeaway, restaurant and 29 residential units.
- PA Ref. 08/40013, ABP Ref. PL47.232130 – Planning permission granted by An Bord Pleanála in June 2009 for change of use of proposed Public House to Bookmakers within unit No. 14 of the Glencarn Shopping Centre and provision of air conditioning units and 1200mm diameter satellite dish to serve development and all development works site development works.
- PA Ref 08/40022 Planning permission refused by MCC in July 2009 for retention of changes to Glencarn Shopping Centre including revisions to internal layout to supermarket, relocation of ESB plant room & bin store, provision of 4 No. retail units & 1 No. office unit to level 1 elevational changes, provision of external steel gantry servicing existing plant room, provision of air conditioning unit & associated plans to exterior of building, provision of shop front signage to exterior of building and permission for provision of additional external shop front signage and all ancillary site development works. The reasons for refusal related to impact of the air conditioning units on the residential amenity of the area and compliance with conditions attached to the parent permission.
- PA Ref: 19/402: An application was submitted in August 2019 for retention permission for the existing car parks serving the Glencarn Shopping Centre and the Glencarn Hotel and permission for the removal of condition no. 8 of planning permission reference no. 04/40009. Monaghan County Council issued a request for further information in respect of the application in October 2019 in relation to the detail of the car parking appraisal, clarification of

ownership and non-compliance with Conditions attached to the parent permission PA Ref: 04/40009. No response to the FI request was received and the application was deemed withdrawn in July 2020.

5.0 Policy Context

5.1. Development Plan

The operative Development Plan is the Monaghan County Development Plan 2019-2025. The following provides a summary of relevant policies and objectives.

Zoning

The site is zoned for town centre purposes with an objective *“To provide, protect and enhance town centre facilities and promote town centre strengthening”*.

The Development Plan outlines that: *“Principal permitted land use will be town centre related uses including retail, residential, commercial, social uses, cultural uses, medical/health uses, hotels, pubs, restaurants and other similar type uses”*.

Advertising structures are listed as uses which are permitted on lands zoned for town centre purposes.

Development Management

Development Management Standards are set out within Chapter 15 of the County Development Plan. The following guidance is of relevance to the proposal.

15.3 Shop fronts

Section 15.3 outlines that *“well maintained shop fronts add character and charm to a street and they have an important role in defining the character of the streetscape. The quality of townscapes can be diminished by shop fronts in poor condition or of poor design”*.

Policy UDP 4 seeks to:

1. *To encourage the preservation of original, traditional shop fronts and good quality contemporary designs.*
2. *To require new shop fronts:*

- a) *To relate to the architecture of the building to which it forms part of and particularly to relate to the upper floors in proportion, scale and alignment.*
 - b) *To respect the scale and proportions of the streetscape by maintaining existing fenestration and plot width including, as required, vertical division or features breaking up long horizontal facades.*
 - c) *To include appropriate use of signage and advertising and include details of fascia signage as part of any planning application.*
3. *To require roller shutters to be perforated in a colour to complement the facade and contained within the shop front behind the fascia. External steel roller shutters will not be permitted.*
4. *To permit canopies/awnings only in exceptional circumstances where they will not detrimentally impact on the visual amenity of the shop front or its setting. Where they are permitted, they shall be incorporated within the shop front.*

15.5 Advertising, Signage & Lighting

Section 15.5 outlines that all advertising must be appropriate in terms of the building, town or setting in which they are located.

Policy ADVP 1 seeks: *“To require that advertising proposals comply with the assessment criteria, guidance and principles set out in Section 15.5 of Chapter 15 of the Monaghan County Development Plan 2019-2025”.*

The CDP outlines that the assessment of planning applications for signage shall be considered in accordance with a number of criteria. The following are of relevance:

- (a) In general, to resist the erection of advertising unless it is located on the same site to which the advert relates to or is in close proximity to a particular commercial activity.
- (b) The impact the advertisement will have on the general characteristics of the area including any special features of historic, archaeological, architectural, landscape, cultural or special interest. Large scale commercial advertisements will not be permitted on or near protected structures, within Architectural Conservation Areas, in parks, residential areas, in Areas of High Amenity value or where it is considered it would detract from the visual amenity of the area.

- (c) The size, scale and siting of the advertisement relative to the building and street in which it is to be located. Signs should not interfere with windows or other facade features at any level.
- (d) The design and materials of the advertisement and its impact on the appearance of the building on which it is to be attached, the site and adjoining buildings.
- (e) The concentration of existing advertising structures in the area and the cumulative effect of the proposal to result in visual clutter.
- (h) Signage above the first floor, at sub fascia level or across pillars or columns will not be permitted.
- (l) Advertising shall not be permitted where it interferes with the safety of pedestrians, the accessibility of the public footpath or roadway, the safety and free flow of traffic or where it obscures road signs.
- (m) Signage shall be of an appropriate size and sited and designed to harmonise with the shop front, the facade of the building and any detailing thereon.
- (n) If illuminated, the impact on the amenities of adjoining properties including its size, scale and levels of illumination and the potential for light pollution. Back lighting of individual letters is preferred to spotlighting and internal illumination. All external lighting shall be cowled and directed away from the public roadway.
- (o) External illumination on fascia signs shall be extended over the whole fascia and be integrated into the whole display.
- (p) Internally illuminated plastic fascia and neon signage shall be resisted.
- (q) To generally restrict projecting signs, and where they are permitted, ensure that they are sympathetic to the design of the building where they are to be displayed and respect any fascia signage.

15.13.7 Residential Amenity

Section 15.3.7 outlines that all developments must have regard to the potential impact upon the residential amenity of existing and permitted residential land uses in the vicinity of the development.

Policy RDP 24 outlines that: *“Development which has the potential to detrimentally impact on the residential amenity of properties in the vicinity of the development, by reason of overshadowing, overbearing, dominance, emissions or general disturbance shall be resisted”.*

15.28 Car Parking Standards

Section 15.26 relates to car parking standards. This outlines that all developments shall be required to provide within the site suitable provision for servicing, parking and manoeuvring of vehicles associated with the proposal. The minimum car parking requirement shall be calculated in accordance with the standards as laid out in Table 15.9 Car Parking Standards.

The following policies are of relevance:

- Policy CP 1: *“To require car parking to be provided in compliance with Table 15.9 Car Parking Standards of the Monaghan County Development Plan 2019-2025”.*
- Policy CP 5: *“To provide for a reduction of up to 50% of the standards as required in Table 15.9 of the Monaghan County Development Plan 2019-2025 for developments or redevelopment of infill/brownfield/derelict sites located within the designated town centres, where appropriate”.*
- Policy CP 6: *“To permit a reduction in the car parking standards set out where the developer cannot provide the required car parking spaces and to accept a financial contribution in lieu of the provision of car parking, where appropriate”.*

Table 15.6 sets out minimum car parking standards. The following are of relevance for the proposal:

- Dwelling: 2 per unit
- Apartment (1 – 2 bed): 1.5 per unit
- Apartment (3 – 4 bed): 2 per unit
- Retail/Service Station: 1 per 15m² GFA*

5.2. Natural Heritage Designations

The appeal site is not located within or adjacent any designated sites.

5.3. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was received from Genesis Planning Consultants on behalf of the applicant. The following provides a summary of the grounds of appeal:

Reason for Refusal no. 1:

- There is no shortfall in car parking in the vicinity by virtue of adjacent car parks which have been constructed by the applicant of permission 04/40009.
- Reference is made by documentation received from Monaghan County Council (11th of May 2010 and 13th of July 2012) and Castleblayney Town Council (17th of May 2010) which confirms that the parking contribution as per Condition no. 8 was no longer applicable due to the subsequent development of car parking spaces adjacent to the shopping centre.
- Correspondence from Monaghan County Council dated 13th of July 2012 outlines that the planning authority have accepted the existing car parks as adequate to serve the shopping centre and sets out the basis for the applicant now seeking the removal of Condition no. 8. The purpose and intent of imposing Condition no. 8 has been satisfied both in terms of parking being provided and this parking being deemed acceptable by the planning authority.

- The 1st reason for refusal fails to recognise the background relating to the lands.

Reason for Refusal no. 2:

- There is a lack of basis reason for refusal no. 2 as the residential units on site were constructed pursuant to permission 04/40009 above the retail units/shopping centre with a plant room also constructed at that time. The established baselines in terms of the mix of commercial and residential units has not been recognised by the planning authority.
- The planning history on the subject lands has already granted permission for air conditioning units under appeal reference PL47.232130. The history establishes a clear precedent and also establishes a pattern of development in the area which the planning authority failed to have regard to.
- There is no basis for MCC to have concluded that the air conditioning or condenser units results in a material set of planning concerns to differ from what has been granted under appeal decision PL47.232130.
- Cross reference is made to the noise survey attached in conjunction with the appeal.

Reason for Refusal no. 3

- Reason for refusal no. 3 is unwarranted and unlawful. Cross reference is made to the opinion of Senior Counsel submitted in conjunction with the appeal.
- Compliance matters with any previous decisions are not necessary to enable a planning authority to deal with an application. A decision can be made on the merits of the application as submitted.
- The planning authority failed to fully review the planning history pertaining to the site. The reason for refusal on Condition no. 3 are considered to be unreasonable. Reference is made to case law (Murphy v's An Bord Pleanala (2009) IEHC 38) in this regard.

6.2. **Planning Authority Response**

None received.

7.0 **Assessment**

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

- Removal of Condition no. 8 of PA04/40009
- Impact on Residential Amenity
- Unauthorised Development/Compliance with Permission
- Appropriate Assessment

7.2. **Removal of Condition no.8 of PA Ref: 04/40009**

7.2.1. The application seeks permission for removal of Condition no. 8 attached to PA Ref 04/40009. This condition relates to a special contribution payable in lieu of car parking to serve the development. Monaghan County Council refused permission for removal of the condition on the basis of non-provision of authorised car parking to serve the development in accordance with the car parking standards set out within Monaghan County Development Plan 2019-2025.

7.2.2. At the outset, I consider that there are procedural issues with the subject matter of the application and appeal which seeks permission to remove a Section 48 financial contribution attached to a historic permission. The parent permission pertaining to the development dates to 2004. No first party appeal was submitted in relation to this condition and the permission has been implemented. In my view, this element of the proposal does not constitute development and compliance with the requirements of the condition is a matter for agreement between the applicant/developer and the planning authority. Notwithstanding this, I note that Monaghan County Council have assessed this element of the proposal on its merits and in accordance with the policies and objectives of the Monaghan County Development Plan 2019-2025. In

the interests of completeness, I have considered the proposal to remove the condition on this basis.

- 7.2.3. The first party appeal sets out a rationale for the removal of the special contribution attached as Condition no. 8 of PA Ref: 04/40009 on the basis that car parking is provided to serve the development. Car parking associated with the development is currently provided within existing parking areas to the north, east and west of the shopping centre. The application documentation includes a survey of the existing parking area which demonstrates capacity within the car parks at peak hours. On-site inspection, I note that there was surplus parking available in all 3 parking areas to serve the development.
- 7.2.4. The main issue underpinning MCC's first reason for refusal is that while parking is currently provided to serve the development, the car parks are unauthorised and not fully within the ownership of the applicant. The planner's report which informs the decision of MCC to refuse permission for the development outlines that the application boundary does not extend to include the adjacent car parks and there is no guarantee that such parking will remain available for the development. Concerns relating to the non-provision of parking to serve the development are raised in this context. In this regard, the Council's decision outlines that *"the planning authority cannot place any reliance on the existing car park in lieu of the development contribution required to be paid by the developer under condition 8 of planning permission ref 04/40009"*.
- 7.2.5. On review of the planning history, I note that there is no record of planning permission for the existing car parks. I refer to the application submitted under PA Ref 19/402 for retention of existing car parks and the request for further information issued in respect of the proposal relating to the layout of the layout and quantum of spaces and land ownership. No response to Monaghan County Council's request for further information was received and the application was deemed withdrawn. I note the reference in the application and appeal documentation to the car parks being in operation for a period in excess of 7 years. However, in this regard I would highlight that the length of time of operation of a use does not authorise the use. I furthermore note that enforcement proceedings are covered by separate legislative requirements and do not overrule the requirement for planning permission.

7.2.6. Having reviewed the information provided in connection with the planning application and appeal, I am of the view that permission should be refused for the removal of Condition no. 8 of PA Ref 04/40009 on the basis that while the principle of the provision of parking in lieu of a financial contribution is considered acceptable the manner in which this parking has been provided is unauthorised. In this instance I recommend that permission is refused for the removal of Condition no. 8 of PA Ref 04/40009 broadly in line with the planning authority's first reason for refusal.

7.3. Impact on Residential Amenity

7.3.1. Monaghan County Council's 2nd reason for refusal raises concerns in relation to the potential noise impact of the air conditioning unit on the residential amenity of adjoining residents. It is stated that the applicant has failed to demonstrate by way of an acoustic report that the air conditioning units would not result in an exceedance of the appropriate noise limits, particularly at night in respect of these residential properties.

7.3.2. In addressing MCC's 2nd reason for refusal I note the reference within the appeal to that the principle of a mix of commercial and residential units has been deemed acceptable on the site. I furthermore acknowledge that the principle of air conditioning units at this location was deemed acceptable by MCC under PA Ref 08/40013 and An Bord Pleanála under ABP Ref PL47.232130.

7.3.3. However, the scope of the application includes permission to retain an air conditioning unit which was not permitted under the parent permission and has the potential for impact on the residential amenity on surrounding residential properties. I refer to the guidance in Policy RDP24 of the MCDP 2019-2025 in this regard which states that *"Development which has the potential to detrimentally impact on the residential amenity of properties in the vicinity of the development, by reason of overshadowing, overbearing, dominance, emissions or general disturbance shall be resisted"*. Having regard to the nature and scope of the application and proximity of adjacent residential units, and the guidance set out within Policy RDP24 I consider the concerns raised within the planning authority's decision to be reasonable.

7.3.4. The existing air conditioning units are located at the loading bay area along the northern elevation of the building as illustrated within Drawing no. P101.00. I refer to the attached presentation document which has images of the units. The noise report

submitted in conjunction with the appeal details that there are 2 refrigeration condensers which operate continually and eight air conditioning units which operate intermittently when required.

7.3.5. A noise report prepared by QED Engineering is submitted in support of the appeal. This details that a 24 noise monitor was put in place within the loading area on the 23rd and 24th of March. This identified that the baseline noise environment is defined by traffic on the adjoining road network. This outlines that the air conditioning unit and condenser units do not exceed the EPA recommended day, evening and night-time noise limits of 55dBA, 50dBA and 45dBA when traffic noise is excluded from the measurements. In terms of impacts on nearest residential properties it is noted that the apartments over the shopping centre adjoining the loading bay do not have windows or openings on the western elevation adjacent to the loading bay. It is furthermore stated that the wall behind the units will also act as a barrier to noise for the dwelling overlooking the loading area. It is furthermore stated that no complaints have been received in relation to the units.

7.3.6. The noise report demonstrates that noise levels at nearest noise sensitive receptors are within the relevant night-time standards. On review of the contents of the noise report, I am satisfied that the siting of the air conditioning and condenser units will not result in significant noise impact on adjacent residential properties. I consider that the applicant has satisfactorily addressed the concerns raised within Monaghan County Council's second reason for refusal in this regard.

7.4. Unauthorised Development/Compliance with Planning Permission

7.4.1. Monaghan County Council's third reason for refusal relates to matters of non-compliance with planning permissions pertaining to the existing development on site. Such concerns are raised in the context of the internal configuration of the shopping centre and non-compliance with conditions attached to the parent permission. I refer to the planner's report which cites non-compliance in respect of the following: -

- Internal works including extra retail units and an office unit instead of a retail unit in operation.
- C1- building line, C3- Part V, C4-finishes, C10-refuse storage and disposal, C12 – storm water attenuation, C17 – change to office use not permitted, C18- housing name and numbering, C19 – public lighting within the

development, C20- external lighting, C22 – development has not been carried out in accordance with plans and particulars.

- 7.4.2. The first party appeal states that the planning authority's 3rd reason for refusal is both unlawful and unwarranted. Case law precedent is cited and a legal opinion by Senior Council is attached to the appeal. The application and appeal documentation furthermore outline that matters relating to the internal configuration of the shopping centre will be subject to a separate application.
- 7.4.3. Having regard to the nature of the application which relates to elevational changes, signage, plant equipment, steel gantry and removal of a condition I consider that the MCC's 3rd reason for refusal does not relate to the proposed development. I consider that the individual elements of the proposal can be considered on their merits in terms of their impact on the visual amenity of the area and compliance with relevant development plan guidance.
- 7.4.4. Notwithstanding the above, I note that the proposed development seeks permission to retain elevational changes to the existing shopping centre including revisions to window and door openings over which signage is proposed. Changes have been made to the fenestration and number of window openings at upper floors which have a permitted residential use. The existing internal configuration of the development is of relevance in this regard. No floor plans are submitted in conjunction with the application which detail the corresponding internal layout of the development. An outline of 6 no. dwelling units fronting onto Main Street are illustrated on Drawing no. P300.00. From external review of the elevation, it appears that there are 4 no. residential units in place. I consider that there are information deficiencies in the application in this respect to enable a full assessment of the elevational changes and signage.
- 7.4.5. The application also seeks to retain the existing steel gantry adjacent to the plant area. I have no objection to this element of the proposal and do not consider that it impacts on the visual or residential amenities of the area.

7.5. **Appropriate Assessment**

- 7.5.1. The site is not located within or within 15km of any Natura 2000 site. In addition, there are no watercourses in proximity to the application site and no pathway connectors with the Natura 2000 network. Having regard to the nature of the

proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that permission is refused for the following elements of the proposal:

- (1) Removal of Condition no 8 of PA Ref 04/40009,
- (2) Permission to retain elevational changes to Glencarn Shopping Centre and ancillary site development works,
- (3) Permission to retain external signage,

8.2. I recommend that permission is granted to retain the following elements of the proposal:

- (1) external steel gantry servicing existing plant room,
- (2) Air conditioning units,

9.0 Reasons and Considerations

Reasons and Considerations (1)

1. On the basis of the information provided in connection with the planning application and appeal, it appears to the Board that the applicant's main justification for the removal of the financial contribution attached under Condition no. 8 of PA Ref 04/40009 relates to the provision of car parking in the vicinity of the site in lieu of the financial contribution imposed under this Condition. The existing car park referred to by the developer lies outside the boundary of the site and does not have the benefit of planning permission. Consequently, to permit the removal of the condition requiring the payment of car parking contributions in lieu of existing car parking without planning permission being in place to regularise these car parks, would effectively result in the development having no authorised car parking serving it. This would be contrary to the provisions of the

Monaghan County Development Plan 2019-2025 and thus would be contrary to proper planning and sustainable development of the area.

2. The proposed development seeks permission for retention of elevational changes and signage at Glencarn Shopping Centre. The elevational changes for which permission is sought to retain include changes to door and window openings and no corresponding internal layouts have been provided. It is considered that there are information deficiencies in the application in this regard. Therefore, to permit the development as proposed for retention would be contrary to the proper planning and sustainable development of the area.

Reasons and Considerations (2)

Having regard to the established commercial use of the site and the zoning objective *“To provide, protect and enhance town centre facilities and promote town centre strengthening”* within the Monaghan County Development Plan 2019-2025 and the planning history of the site, it is considered that the development proposed to be retained, subject to compliance with the conditions set out below, does not seriously injure the visual or residential amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

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| 1. | The development shall be retained in accordance with the plans and particulars lodged with the application as amended by the drawings received by the planning authority on the 14 th of January 2021 except as may otherwise be required in order to comply with the following conditions. Reason: In the interest of clarity. |
| 2. | 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 in |

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| | <p>such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p> |
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Stephanie Farrington
Senior Planning Inspector
6th of September 2021