



Development

Planning permission for the construction of a new Discount food store supermarket with ancillary off-licence sales. The proposed development comprises: 1. The demolition of existing single storey discount food store (with ancillary off-licence use) measuring c.1,589 sqm gross floor space with a net retail sales area of c. 1,171 sqm; 2. The construction of a single storey (with mezzanine plant deck) mono-pitch (with flat roof loading bay) discount food store (with ancillary off-licence use) measuring 2,264 sqm gross floor space with a net retail sales area of 1,420 sqm; 3. Redevelopment/reconfiguration of existing site layout, car parking and hard and soft landscaping, with relocated vehicular access point to existing access road: and, 4. Provision and renewal of boundary treatments, free standing and building mounted signage, covered trolley bay, refrigeration and air conditioning plant

and equipment, ESB unit sub-station, public lighting, electric vehicle infrastructure, roof mounted solar panels, cycle parking, modification of existing drainage, utility and services infrastructure and connections, and all other associated and ancillary development and works above and below ground level. Significant further information received 9/7/21.

Location	Monaghan Road, Castleblayney, Co. Monaghan, A75 EK44.
Planning Authority	Monaghan County Council.
Planning Authority Reg. Ref.	21153.
Applicant	Lidl Ireland.
Type of Application	Planning Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	First Party – Vs – Condition No. 2.
Appellant(s)	Lidl Ireland.
Observer(s)	None.
Date of Site Inspection	1 st day of November, 2021.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

1.1. The appeal site has a given 0.6820ha area and it is located on the northern side of Castleblayney, Co. Monaghan, with its southern boundary aligning with the heavily trafficked Monaghan Road (R183) c95m to the north of the entrance to Beech Drive residential estate and its eastern boundary aligning with a modest in length cul-de-sac road which provides the sole vehicle entrance serving the site onto the public road network and also access to Drumhillard Retail Park which lies to the north as well as north west of the site. The site is bound on its western boundary by a petrol station (Applegreen). The site contains an existing discount food store and its associated car park. The surrounding urbanscape could be described as having a mixed-use character.

2.0 Proposed Development

2.1. Planning permission is sought for the construction of a new discount food store supermarket with ancillary off-licence sales. The proposed development is comprised of:

- Demolition of existing single storey discount food store (with ancillary off-licence use) measuring c.1,589 sqm gross floor space with a net retail sales area of c. 1,171 sqm;
- Construction of a single storey (with mezzanine plant deck) mono-pitch (with flat roof loading bay) discount food store (with ancillary off-licence use) measuring 2,264 sqm gross floor space with a net retail sales area of 1,420 sqm:
- Redevelopment/reconfiguration of existing site layout. Including car parking and hard and soft landscaping, with relocated vehicular access point to existing access road; and,
- Provision and renewal of boundary treatments, free standing and building mounted signage, covered trolley bay, refrigeration and air conditioning plant and equipment, ESB unit sub-station, public lighting, electric vehicle infrastructure, roof mounted solar panels, cycle parking, modification of existing drainage, utility and services infrastructure and connections, and all other associated and ancillary development and works above and below ground level.

- 2.2. On the 9th day of July, 2021, the applicant submitted their further information response. This was deemed to be significant and thus required new public notices.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 5th day of August, 2021, the Planning Authority decided to **grant** planning permission for the development set out in Section 2 of this report above subject to 25 no. conditions. Of relevance to this appeal case is the requirements of the following condition:

Condition No. 2:

- "a. *The developer shall pay to Monaghan County Council a sum of €108,450.00 in accordance with the General Development Contribution Scheme 2013-2019 (as revised), made by the Council under Section 48 of the Planning and Development Act 2000 (as amended), towards expenditure incurred or proposed to be incurred by the Council in the provision of car parking infrastructure and facilities in the area.*
- b. *The sum attached to this condition shall be revised from the date of the grant of planning permission to the value pertaining at the time of payment in accordance with the Wholesale Price Index for Building and Construction {Materials and Wages}.*
- c. *No works shall commence until payment of the development contribution is made in full, or until Monaghan County Council has agreed in writing to a schedule of phased payments of the sum.*

Reason: It is considered appropriate that the developer should contribute towards the expenditure incurred or proposed to be incurred by the Council in the provision of car parking infrastructure and facilities in the area".

3.2. Planning Authority Reports

3.2.1. Planning Reports

The final Planning Officers report dated the 5th day of August, 2021, considered that the overall proposed development was acceptable subject to conditions. On the matter of car parking which is of relevance to the subject matter of this appeal included the following comments:

- The appellants submission of an updated Traffic and Transport Assessment and a Stage 1 / 2 Road Safety Audit was noted.
- It is noted that the original store was permitted in 2003 with 132 car parking spaces indicated on the site layout and as permitted.
- In 2012 permission was granted for the extension of the store by 120m² and the reduction of the car parking spaces on site to 107 (Note: P.A. Ref. No. 12/40015). These number of spaces were considered to be sufficient to meet the extended store under the car parking standards required by the Development Plan at that time. The current Development Plan this development incorporates the same car parking standards and as a result of the proposed gross retail floor space would require a total of 151 car parking spaces.
- 8 bicycle spaces are provided which would assist in modal shift from motorised vehicles, but it is proposed to provide only 105 car parking spaces.
- The actual figure of car parking spaces on site is 91 and if a pro rata increase in spaces were imposed then the number of spaces required would be 110.
- It has not been sufficiently demonstrated that the proposed 105 car parking spaces are sufficient to serve the proposed development and therefore a development contribution shall be imposed in lieu of on-site car parking provision in accordance with the County Development Plan standards.

Attached to this report is a calculation of Development Contributions including:

Category	Dev Type	Rate	Floor Area/ Number	Calculation	Contribution Due (€)
1. Parking	All	€2,410 per space of part thereof	45 space deficit	€2,410 x 45	€108,450.00

3.2.2. Other Technical Reports

Carrickmacross/Castleblayney Municipal District: No objection.

Roads: Further Information requested (07/05/2021). No further report in relation to the applicant's further information submission.

Environment: No objection.

Water: No objection.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1. Site:

P.A. Ref. No. 03/40020: Planning permission was **granted** subject to conditions for a discount food store (1,661m²) including but not limited to the provision of 132 car parking space.

P.A. Ref. No. 05/40028: Planning permission was **granted** subject to conditions for ancillary use of previously approved discount food store with a gross floor space of 1,500m² as off licence.

P.A. Ref. No. 12/40015: Planning permission was **granted** subject to conditions for a development consisting of: a single storey extension (119.78m²); relocation of disabled and parent and child car parking spaces with the overall reduction in car parking spaces from 116 to 107; and, internal modifications with the required connections to the existing store together with all associated site works and services.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. Monaghan County Development Plan, 2019 to 2025, is the applicable Development Plan. The site is located within the settlement boundaries of Castleblayney c160m outside of town centre zoned land and on land zoned '*Existing Commercial*'. The stated land use zoning for such land is "*to provide for established commercial development and facilitate appropriate expansion*".
- 5.1.2. Section 15.6 of the Development Plan sets out car parking standards for the various forms of development.
- 5.1.3. Appendix 10 of the Development Plan sets out that a Traffic and Transport Assessment may be required where retail developments are in excess of 1,000m².

5.2. Other

- 5.2.1. Monaghan County Council General Development Contribution Scheme, 2021 to 2026, is the applicable contribution scheme.

5.3. Natural Heritage Designations

- 5.3.1. The site does not form part of a Natura 2000 site nor are there any such sites within its immediate and/or wider setting. The nearest such site is c24.8km to the south east. This is Dundalk Bay SPA (Site Code: 004026).

5.4. Environmental Impact Assessment (EIA)

- 5.4.1. Having regard to the nature and scale of the proposed development 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.
- 5.4.2. Of note there is a proposed NHA located c496.4m at its nearest point to the east of the site. This is Muckno Lake pNHA (Site Code: 000563).

5.5. Built Heritage

- 5.5.1. None on site or within the immediate vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

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

- This appeal relates solely to Condition No. 2 of the grant of permission which relates to a car parking shortfall in the amount of €108,450 and which the appellant seeks by way of this appeal to the Board is removed in its entirety.
- The Planning Authority in this case have not properly applied the terms of its General Development Contribution Scheme as there is no shortfall of car parking that would occur as a result of the proposed development.
- The Planning Authority have calculated the actual shortfall of 9 no. parking spaces and even if there is a shortfall of 9 no. parking spaces, they have levied for 45 no. car parking spaces.
- If the Board deems that the Planning Authority are correct that there is a shortfall of 9 no. spaces, then Condition No. 2 should be levied for 9 by €2,410 = €21,690. Though it is reiterated that it is their view that there is no shortfall arising from the proposed development permitted under this application.
- For the avoidance of doubt this appeal related to a Section 48 appeal only and the appellant intends to commence development prior to the Board determining this appeal case. As such they intend to seek a Final Grant of Permission from the Council in due course in accordance with Section 48 of the Act.
- This development relates to a redevelopment of an existing Lidl store on an existing site. It involves the demolition of an existing single storey discount food store with ancillary off-licence use measuring c1,589m² gross floor space with a net retail area of c1,171m². The single storey replacement discount food store would measure 2,264m² gross floor space with a net retail sales area of 1,420m². It also involves the redevelopment and reconfiguration of the existing site layout, car park and hard/soft landscaping with relocated vehicular access point, increasing the 88-no. existing car parking spaces to 105 (including 4 no. disabled (5 no. existing) and 4 no. parent and child spaces (3 no. existing). Therefore, the car parking would be increased by 19.3% at a general comparable rate to the increase in net retail

sales area of 21.3%. The latter is supported by the TTA provided. This is an approach previously accepted by the Board.

- The Planning Authority's calculation for Condition No. 2 has no basis.
- Reference is made to the Planning Officer's report.
- Reference is made to the Monaghan County Development Contribution Scheme, 2013 to 2019.
- The Planning Authority has not taken account in their calculation a credit for the existing use and floorspace as provided for under Section 12 of the Scheme or that this development would give rise to no new demand for new, upgraded, or additional infrastructure or services.
- A discount food store/supermarket is a sui generis land use and as such does not suitably fit within any of the car parking categories in the Development Plan. To calculate it under the heading of Retail/Service Station is excessively broad.
- The Planning Authority have applied a gross floor space increase of 42.5% rather than the actual projected increases in traffic of 21.3% which aligns with the increase in net retail sales area being the principal generator of trade.
- The use of gross increase is inappropriate and disproportionate.
- The Board is requested to determine that it is the net increase that is the difference and is of relevance in terms of projecting likely parking and traffic increase rather than gross. In doing so the Board would conclude that there is no actual shortfall of parking spaces. Even with the disproportionate approach of the Planning Authority of 9 car parking spaces this should be the maximum levied as 45 parking spaces is a significantly overstated figure.
- There is no basis for reliance on the generic Development Plan parking rate categories as the scheme makes no reference to them.
- The calculation should be on its merits.
- There will be more than sufficient car parking to meet the needs of the development as proposed.

- A number of Board cases are cited where it is argued that the Board have looked beyond the tabular standards presented by the Development Plan and had regard to the nature of the specific use.
- The Planning Authority are seeking to charge €108,450 to alleviate a perceived shortfall of parking when the actual situation is that there will be up to 30 no. spaces over and above that which is actually required.
- The deletion of Condition No. 2 is in the interests of proper planning and sustainable development of the area as well as is in the interests of the proper planning and sustainable development of the area.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- At the time this application was considered the Monaghan County Council General Development Contribution Scheme, 2013-2019, was in force. Section 7 of this scheme sets out that in general all planning permissions granted by the Council will be subject to the Development Contribution Scheme and the development charges shall be levied as a condition under any permission issued under Section 34 of the Planning & Development Act, 2000, as amended.
- A new development contribution scheme came into force on the 6th day of September, 2021, and this includes the same text as in Section 7 of the previous scheme.
- It is clarified that their final recommendation having carried out an inspection of the site to assess the car parking that it was concluded that the shortfall in the provision of car parking spaces to the required standards of the Development Plan it was considered that a development contribution should be levied for this shortfall.
- There was an error in the uploading of what was the final Planning Officer's report on the public website.
- A copy of the final Planning Officer's report is attached for clarification and the error in the public website has been since addressed.
- Reference is made to the findings of the TTA.

- The appellant seeks to argue that the proposed development would not place an additional demand for new, upgraded, or additional infrastructure or services. However, having regard to the Development Plan this development would clearly require an additional 45 car parking spaces and it is therefore appropriate for the Planning Authority to levy for this shortfall.
- The appellant seeks to argue that the proposed development is a 'sui generis' use and therefore the category of 'retail is not applicable to it. On this point the Planning Authority state that categorically this development is for a supermarket and thus the land is retail. Therefore, a rate of 1 car parking space per 15m² as set out in the Development Plan is applicable.
- Although a number of appeal decisions have been cited by the appellant in their appeal statement the Planning Authority does not think these are directly comparable to the proposed development. For example, two of the cases relate to mixed use development where complementary dual use of the spaces was deemed acceptable and the other examples involved retail warehouse use and applies a lower car parking rate of 1 car parking space per 30m². In addition, the development contributions that were applicable to these examples were not directly comparable to the Monaghan County Development Contribution Scheme. The Board is therefore requested to disregard these examples cited.
- In addition, the appellant cites an example where the Board disregarded a car parking requirement on the basis that the actual use associated with the development was less.
- The Planning Officers Report clearly sets out that the Planning Authority deem that the TTA provided is flawed as it was based on an incorrect number of existing car parking spaces within the site. Therefore, no weight was given to this assessment and the default position of the County is to require the number of car parking spaces as is required under the Development Plan.
- The appellant seeks to argue that the net retail floor area should be used as a method for the calculation of the car parking requirement. However, the car parking requirements are as per the requirements set out in the Development Plan.

- In this case the development contributions were considered under the previous development contribution scheme, and this was correctly applied, and the proposed development was levied correctly based on the car parking requirements of the applicable Development Plan.

6.3. Further Responses

- 6.3.1. On the 22nd day of October, 2021, the Appellant submitted a response to the Planning Authority's appeal response. The contents of which I have noted. This response considers that the Planning Authority have not materially rebutted the grounds of appeal. It emphasises that the determining factor for car parking spaces is demand and any minor variance in existing supply is irrelevant. I consider this response raises no new substantive issues.

7.0 Assessment

- 7.1. The applicant has lodged a separate appeal to the Board which relates to Condition No. 2 only. They essentially seek that this condition be omitted from any grant of planning permission.
- 7.2. I note that Condition No. 2 requires the developer to pay the sum of €108,450.00 to Monaghan County Council as a development contribution in accordance with their General Development Contribution Scheme, 2013 to 2019, as amended. With the given reason for this condition reading: *"it is considered appropriate that the developer should contribute towards the expenditure incurred or proposed to be incurred by the Council in the provision of car parking infrastructure and facilities in the area"*.
- 7.3. The said condition further indicates under subsection: (b) that the sum to be attached be revised from the date of the grant of planning permission to the value pertaining at the time of payment in accordance with the Wholesale Price Index for Building and Construction (Materials and Wages); and, under subsection (c) that no works shall commence until payment of the development contribution.
- 7.4. In relation to subsection (c) I note that the appellant has indicated in their grounds of appeal that it is their intention to commence the permitted development prior to the Board making its determination of their 3rd Party appeal case and to seek a Final Grant of Permission from the Planning Authority in due course in accordance with Section

48 of the Act. At the time of my inspection of the site none of the works subject of this application had been implemented and should the appellant commence works as would appear is their intention to do so this would be contrary to the requirements of Condition No. 2 and would be an enforcement matter for the Planning Authority to deal with as they see fit.

- 7.5. At the time, this report has been prepared I note to the Board that the said general development contribution scheme that was in place at the time this application was submitted to and determined by the Planning Authority was no longer in place and had been superseded by the Monaghan County Council General Development Contribution Scheme, 2021-2026. Therefore, the terms of this new scheme are now applicable.
- 7.6. Section 7 of the said scheme sets out that in general all permissions granted by the Council will be subject to this development contribution scheme and that the development charges shall be levied as a condition under any permission issued under Section 34 of the Planning & Development Acts, 2000, as amended.
- 7.7. Section 12 of the said scheme deals with the matter of replacement development/redevelopment/subdivision and change of use and states that: *“a credit for the existing land use site area, floor space or foot print shall be given when calculating the appropriate development contributions in respect of replacement development, redevelopment, subdivision, or change of use development. In these instances, development contributions will only be levied in respect of net additional floorspace, footprint or site area, or where the new development places a new demand for new, upgraded or additional infrastructure or services”*.
- 7.8. Section 19 sets out exemptions/reductions from the payment of development contributions. It states that: *“the Planning Authority may allow for full or partial exemptions from payment at its discretion. The onus shall be on the applicant to demonstrate that the development would be a type which would qualify for any exemptions or reductions set out”* under this section of the scheme.
- 7.9. This includes subsection (l) whereby there is a 100% reduction in development contribution charges in relation to shortfall for car parking provisions for development within Tier 4, 5 and 6 settlements as designated in the Monaghan County

Development Plan, 2019-2025, where the Planning Authority deem this exemption appropriate.

- 7.10. In this regard, the appeal site is located in a Tier 2 Strategic Town and therefore this exemption is not applicable.
- 7.11. It also includes subsection (p) which provides an exemption for any development ancillary to the types of development referred to in paragraphs (a) to (o) above inclusive, where the ancillary development does not place a demand for new, upgrade, or additional infrastructure or services.
- 7.12. As set out above the proposed development would give rise to a replacement discount food store at the appeal site which would have an additional 675m² gross floor space and I am cognisant that under Section 15.28 of the Development Plan, which sets out the car parking requirements for various types of developments would require an additional 45 no. car parking spaces to be provided.
- 7.13. Having regard to the planning history of the site permission was granted for a discount food store (Note: 1,661m²) at the subject site under P.A. Ref. No. 03/40020 with this grant of permission being subject to conditions. The accompanying plans and documentation show that the discount food store would be served by 132 car parking spaces. The site area subject of this grant of permission is the same as that presented under this current application.
- 7.14. Under P.A. Ref. No. 12/40015 permission was granted for an increase in the gross floor area of the permitted 1,661m² discount food store by 119.786m². Thus, giving rise to a gross floor area of 1780.786m². As part of this permission the Planning Authority permitted the reduction in car parking spaces from 116 to 107. It would therefore appear that prior to this application 116 car parking spaces may have been provided to serve the development permitted under P.A. Ref. No. 03/40020, 16 parking spaces of a shortfall.
- 7.15. Under this application planning permission is sought for what is essentially a replacement discount food store with a gross floor space of 2,264m². Thus, an increase in gross floor space of 483.214m². This application also includes the reconfiguration of the remaining area of the site including the car parking provision with the drawings showing that 105 spaces are proposed to serve this development alongside 8 cycle spaces to assist modal shift from motorised vehicles.

- 7.16. The revised TTA accompanying the applicant's further information response sets out that the proposed development would result in a 21.3% increase in vehicle generation in peak hour with this they argue being in line with the net increase in retail floor area. With this figure based on traffic counts and parking accumulation surveys carried out on behalf of the applicant for the 5th and 6th day of February, 2021, when Level 5 Covid 19 restrictions were in place.
- 7.17. It indicates that regard was had to previous surveys carried out. In particular, the TRICs survey conducted on the 16th day of November, 2016, a further TRICs survey was undertaken on the 3rd day of June, 2021, through to regard was also had to the previous AADT figures for the Monaghan Road for the three years prior to the making of this application.
- 7.18. It was further noted that transactions do not match vehicle trips to the store with this difference arising from those walking or cycling to the store from the surrounding local catchment.
- 7.19. The revised TTA sets out that under the Development Plan requirements, which is based on a rate of 1 space per 15m² gross floor area this development would equate to a notional requirement of 151 parking spaces for the proposed redevelopment sought under this application. However, it concludes that this number of spaces would be excessive having regard to the current quantum of 88 spaces which it sets out can accommodate the existing traffic demands even during peak use.
- 7.20. It therefore considers that as the net increase in sales area will increase by 21.3% that the 105 spaces proposed will equate to a 19.3% increase in car parking provision over the existing situation.
- 7.21. I concur with the Planning Authority's Planning Officer's report in that a lesser provision of car parking provision than what is present on site is presented in the revised TTA provided by the applicant.
- 7.22. I also consider that it is also a concern that consistently since the parent grant of permission that the applicant has consistently provided a shortfall of parking spaces. However, this I note is an enforcement matter for the Planning Authority to deal with as they see fit.

- 7.23. I therefore consider that it is in the interests of proper planning and sustainable development that any starting point for the calculation of the car parking requirement should firstly start at the level of car parking permitted for this discount food store. As set out above this is 107 parking spaces under P.A. Ref. No. 12/40015. Under Section 15.28 of the Development Plan this type of development requires 1 parking space per 15m² gross floor area. Not the net retail floor area. Based on the requirements of Section 15.28 this would give rise to an additional requirement of 32.21 parking spaces. When this is added to the 107 car parking spaces this equates to 139.21 parking spaces. As said the applicant seeks to provide 105 car parking spaces. This equates to a shortfall under the Development Plan of 34.21 parking spaces between the Development Plan requirements for this type of development and what is proposed.
- 7.24. Policy CP 6 of the Development Plan indicates that the Planning Authority may consider: *“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”*.
- 7.25. I am cognisant that the Planning Authority in this case considered such an approach acceptable. This is clear in the Planning Authority’s Planning Officer’s report which considers this matter in detail.
- 7.26. The revised TTA anticipates that the proposed development sought under this application would give rise to a 21.3% net increase in retail floor area and that it is reasonable that the car parking provision reflects or is near to this percentage increase in the calculation of parking space provision based on a starting figure of 88 car parking spaces.
- 7.27. The 105 car parking spaces proposed represents in their view an increase in 19.3% in car parking provision over the existing provision.
- 7.28. As discussed, the starting figure of 88 car parking spaces as existing is not with basis having inspected the site and having counted 91 spaces in situ. This corresponds with that concluded by the Planning Authority in their determination of this application.
- 7.29. I therefore do not accept the 88 car parking spaces as a starting point for any calculation of the proposed redevelopments car parking requirements.

- 7.30. On this point I also do not consider the starting point of 91 car parking spaces as a starting point for any calculation of the proposed redevelopments car parking requirements is in the interests of proper planning and sustainable development. With this conclusion based on this level of provision is a substantive shortfall of 16 car parking spaces to serve the discount food store that was permitted an expansion of gross floor area as well as within that an increase in its net retail sales area under P.A. Ref. No. 12/40015.
- 7.31. Moreover, whilst enforcement is a matter for the Planning Authority to deal with as it sees fit it would not be consistent with proper planning and sustainable development for the Board to accept a car parking provision that is in conflict with the development permitted under P.A. Ref. No. 12/40015. And arguably this would be an undesirable precedent to set in an area where the proposed development is accessed from a heavily trafficked regional road in an area where there is limited opportunity within the public domain for any shortfall of car parking on private land to be accommodated.
- 7.32. If the Board considers it equitable to apply the 21.3% increase in net retail area to the car parking provision required to meet the proposed development, it would in my view be appropriate that the starting point is the permitted 107 car parking spaces under P.A. Ref. No. 12/40015.
- 7.33. As set out previously the proposed development seeks to provide a 2 car parking spaces less than that permitted under P.A. Ref. No. 12/40015, i.e., 105 parking spaces and as set out under this application an additional gross floor space of 675m².
- 7.34. By applying Section 15.28 of the Development Plan to the additional gross floor area, i.e., 1 parking space per 15m² gross floor area, there is a requirement of an additional 45 parking spaces over that permitted under P.A. Ref. No. 12/40015. Thus, 47 parking spaces above that proposed under this current redevelopment proposal and I further note 61 to 64 car parking spaces, respectfully, over the existing car parking provision depending on whether the TTA or the PA existing car parking provision is accepted as being correct.
- 7.35. Appendix 3 of the Development Scheme sets out the Levels of General Development Contribution with Category 1 dealing with the matter of provision of car parking spaces in lieu of shortfall. With this contribution being the same for all development types and

the specified amount being '€2,430 per space or part thereof'. Applying this figure to the shortfall of 47 parking spaces gives rise to a sum of €114,210 under the scheme.

- 7.36. The TTA submitted with this application anticipates an increased demand of 21.3% and also sets out that the 105 parking spaces proposed, which I note is two spaces less than that permitted under P.A. Ref. No. 12/40015 and 15 more than that currently existing, together with the provision of 8 bicycle spaces to assist modal shift from motorised vehicles would sufficiently meet the requirements of the proposed development including during peak demands.
- 7.37. Having examined the TTA, the planning history and all documentation on file, including the applicable development contribution scheme, I am not convinced that the applicant has demonstrated sufficiently that the provision of 105 car parking spaces, a level of car parking spaces that is two lower than that permitted for what is essentially a smaller discount food store both in overall gross floor area and net retail area than that now proposed. Given that under Section 15.28 of the Development Plan which sets out the minimum requirements for car parking for development the replacement 2,264m² discount food store has a requirement of 150.93 car parking spaces. Thus, there is a shortfall of 45 car parking spaces between what is proposed and what is required under the Development Plan standards.
- 7.38. If the applicant's contention is accepted that the proposed development would give rise to 21.3% increase in potential traffic and car parking generated over the existing situation it would be inappropriate in terms of the interests of proper planning and sustainable development to base a calculation on an existing situation of car parking provision that is unregularized. It would be more appropriate to base the 21.3% increase of car parking figures based on what is permitted for this site which is a figure of 107.
- 7.39. Applying this methodology would give rise to an additional requirement of 22.791 parking spaces.
- 7.40. When this figure factors in the difference of 2 car parking spaces between what should be *in situ* in compliance with P.A. Ref. No. 12/40015 and the car parking proposed under this application this would equate to a shortfall of 24.791 parking spaces. Thus, when Appendix 3 is applied this equates to a sum of €60,242.13 to be paid to the Planning Authority in lieu of the shortfall.

- 7.41. This is a difference of 53,967.87 between the two sums.
- 7.42. Given that the Planning Authority sets out that they are amenable to the shortfall of car parking to be dealt with by payment of the sum of monies set out under Appendix 3 of the development contribution scheme I do not consider this to be unreasonable. Given that there is a significant shortfall in the car parking provision to serve the proposed development when regard is had to the Development Plan requirements. Also, given the consistent under provision of car parking to meet the demands of this type of development in a manner consistent with what has been permitted, the limited available public on-street car parking provision in this area to meet any shortfall should this arise through to given the location of the site dependent upon access onto the public road network via a heavily trafficked regional road.
- 7.43. I also do not consider it inappropriate that a credit is given to the applicant as per Section 12 of the development contribution scheme for the existing land use floor space but also having regard to the fact that the applicants TTA clearly sets out that this development has the potential to give rise to 21.3% increase in traffic generation/parking pro rata over and above the existing situation.
- 7.44. *Conclusion*
- 7.45. Based on the above considerations I consider that the provisions of Section 12 of the scheme should be applied in this instance and the sum set out for payment to the Planning Authority under Condition should be amended to €60,242.13 to be paid in lieu of the shortfall of car parking spaces in the interest that it is appropriate that the developer should contribute towards the expenditure incurred or proposed to be incurred by the Council in the provision of car parking infrastructure and facilities in the area.
- 7.46. I also note that I have had regard to the various precedent cases cited by both parties in their submissions to the Board, but I am of the view that the proposed development and the development contribution scheme should be considered on its individual merits.

8.0 Recommendation

8.1. In accordance with Section 48 of the Planning and Development Act, 2000, as amended, and based on the reasons and considerations set out below, I consider that the terms of the Monaghan County Council General Development Contribution Scheme, 2019 to 2025, for the area have not been properly applied in respect of condition number 2 for the reasons and considerations set out below. I therefore recommend that condition number 2 should be amended in their notification to grant permission for P.A. Ref. No. 21153.

9.0 Reasons and Considerations

9.1. The Board, in accordance with Section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area considers that condition number 2 has been incorrectly applied and determined in accordance with Monaghan County Council General Development Contribution Scheme, 2019 – 2025.

Having regard to:

- (a) The submissions made in this appeal.
- (b) The provisions of Monaghan County Council General Development Contribution Scheme, 2019 – 2025.
- (c) The planning history of the site.
- (d) All relevant planning provisions including the Monaghan County Development Plan, 2019 to 2025.

The Board considers that condition no. 2 has been incorrectly applied and determined in accordance with the provisions of the Monaghan County Council General Development Contribution Scheme, 2019 – 2015, and it considers that the Section 12 of the said scheme is applicable to the proposed development and that the revised TTA whilst providing an inaccurate representation of actual car parking spaces in situ does support that the increase in gross floor area and the increase in net retail area

gives rise to a pro rata increase in car parking generation. Therefore, condition no. 2 should be amended to read as follows and the Planning Authority directed accordingly.

Condition No. 2:

- “a. The developer shall pay to Monaghan County Council a sum of €60,242.13 in accordance with the General Development Contribution Scheme 2013-2019 (as revised), made by the Council under Section 48 of the Planning and Development Act 2000 (as amended), towards expenditure incurred or proposed to be incurred by the Council in the provision of car parking infrastructure and facilities in the area.*
- b. The sum attached to this condition shall be revised from the date of the grant of planning permission to the value pertaining at the time of payment in accordance with the Wholesale Price Index for Building and Construction {Materials and Wages}.*
- c. No works shall commence until payment of the development contribution is made in full, or until Monaghan County Council has agreed in writing to a schedule of phased payments of the sum.*

Reason: It is considered appropriate that the developer should contribute towards the expenditure incurred or proposed to be incurred by the Council in the provision of car parking infrastructure and facilities in the area.

Patricia-Marie Young
Planning Inspector

15th day of December, 2021.