



An
Bord
Pleanála

Inspector's Report ABP-312878-22

Development

Site clearance and demolition of all existing structures, construction of a single storey discount foodstore (to include off-licence use), new accesses from Station Road and Market Street, including removal of the boundary wall relating to the Court House building, a protected structure (CV17027), parking, signage, solar panels, landscaping/lighting, boundary treatment, engineering and site development works.

Location

Site to the rear of Station Road and Market Street, Coothill, Co. Cavan.

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

21/143

Applicant(s)

Aldi Stores (Ireland) Ltd

Type of Application

Permission

Planning Authority Decision

Grant, subject to 19 conditions

Type of Appeal	Third Party -v- Decision
Appellant(s)	RGDATA
Observer(s)	None
Date of Site Inspection	13 th April 2022
Inspector	Hugh D. Morrison

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2.0 Site Location and Description

- 2.1. The site is located in the north-eastern portion of Cootehill town centre, which is bound by Lower Market Street and Station Road, both of which lie along the R190. This site lies largely in a backland position, to the south of the Courthouse on Lower Market Street, and to the west of St. Michael's Church on Station Road. However, it does have a short street frontage beside the Courthouse, and a longer street frontage beside the Church.
- 2.2. The main body of the site is of regular shape with subsidiary portions extended to the north-east and the north-west to provide the aforementioned street-frontages. This site has an area of 0.9 hectares. It comprises an assortment of historic plots of land, which are now largely continuous with one another. This land is uneven with gentle gradients falling towards the south-east and the north-east. The site abuts the grounds of several civic, commercial, and residential properties to the south-west, north-west, and north-east. These grounds comprise, typically, back yards. The existing walls along the common boundaries with these properties would be retained. The remaining long south-eastern boundary of the site abuts largely the grounds of St. Michael's Church. It was formerly denoted by a row of trees, which have now been removed.

3.0 Proposed Development

- 3.1. The proposal would comprise the following elements:
 - The demolition and clearance of all existing structures (c. 313 sqm) on the site. These structures comprise the following: temporary buildings c. 26 sqm, shipping containers 44 sqm, and existing ruins c. 243 sqm.
 - The construction of a single storey discount foodstore (including an off-licence) with a gross floor area of c. 1824 sqm (net retail area 1333 sqm). This foodstore would be sited in the south-western half of the site.
 - A new vehicular/pedestrian access from Station Road, which would extend along the south-eastern boundary of the site, and which would include an access point to adjoining lands to the south-east, i.e., to the rear of St. Michael's Church.

- The provision of a pedestrian/cycle access from Market Street. This access would entail the relocation of information signage in front of the Courthouse, and the removal of a modern lean-to structure from the side of this Courthouse, which is a protected structure (CV17027), and a projecting stone pier along the south-western boundary to the grounds in front of it.
- The provision of 89 no. car parking spaces and 10 no. bicycle spaces in the north-western and north-eastern portions of the site.
- The following signage would be erected/installed:
 - 1 no. internally illuminated, double sided, free standing, identification sign located adjacent to the proposed vehicular entrance to the car park,
 - 2 no. illuminated entrance wall signs adjacent to the Station Road vehicle access and the Market Street pedestrian/cycle access, and
 - 1 no. single-sided internally illuminated gable sign on an expanse of stonework in the north-eastern elevation of the foodstore, and
 - 1 no. single-sided window sign at the entrance door to the foodstore in its north-eastern elevation.
- The installation of 90 sqm of solar panels at roof level.
- All landscaping/lighting, boundary treatment, engineering and site development works (including a single storey ESB sub-station and switch room c. 21 sqm).

4.0 Planning Authority Decision

4.1. Decision

Following receipt of further information, permission granted, subject to 19 conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The following further information was requested:

- Revisions to proposed access road to accord with DMURS advice.
- Stage 1/2 RSA to be undertaken, based on the above revisions, and any recommendations incorporated in an overall revised design.
- Irish Water's advice to be addressed and a diversion agreement submitted.
- Boundary treatments with adjoining properties to be clarified.

4.2.2. Other Technical Reports

- Irish Water: Further information requested concerning the presence of water/wastewater infrastructure on the site and the need for diversions. Subsequent correspondence from Irish Water to the applicant included in the further information received.
- Department of Housing, Local Government and Heritage: Given the scale and backland siting of the proposal, sub-surface remains may exist and so a condition requiring pre-development testing is recommended.
- Cavan County Council:
 - Road Design: Reviewed the proposal and raised no objection.
 - District Engineer: No objection, conditions recommended.

5.0 Planning History

Pre-application consultation occurred on 4th February 2021.

6.0 Policy and Context

6.1. National Planning Guidelines

- Retail Planning Guidelines
- Architectural Heritage Protection Guidelines
- Design Manual for Urban Roads and Streets

6.2. Development Plan

Under the recently adopted Cavan County Development Plan 2022 – 2028 (CDP), Cootehill is categorised as a self-sustaining town in the County’s settlement hierarchy, i.e., these are towns “with high levels of population growth but which require targeted “catch-up” investment to become more self-sustaining.” The site is zoned town core and its south-western tip overlaps with the Masterplan (M2) area, which is centred on the local GAA grounds.

The relevant zoning objective is to “Protect and enhance the special physical and social character of the town and village core while providing and/or improving town/village centre facilities.” Retail uses (local and major) are “permitted in principle” under this zone.

Commercial and retail development objective (CR 06) states “Support the delivery of an anchor convenience retail outlet in or adjacent to the town core.”

Cootehill Local Area Masterplan Part 2 is the subject of the following commentary:

This Masterplan area (Appendix 24) encompasses the south east of Market Street and includes the existing GAA pitch and grounds. At the time of preparation, it offered two scenarios with the GAA usage remaining and the GAA usage being removed. Proposal A with the retention of the GAA pitch and facility are considered the appropriate scenario. This Masterplan seeks to explore how a new vehicular link could be provided parallel to Market Street.

Under the CDP, Lower Market Street is an Architectural Conservation Area, which is the subject of an Architectural Conservation Area Report, Character Appraisal, and Policy Framework in Appendix 20 of the CDP. Within the immediate vicinity of the site, the Courthouse (CV17027), the Garda Station (CV44021), Drumlin House (CV44023), and St. Michael’s Church (CV17031) are protected structures.

6.3. Natural Heritage Designations

- Dromore Lakes pNHA (000001)
- Lough Oughter and Associated Loughs SAC (000007)

6.4. EIA Screening

Under Item 10(b)(iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2022, where urban development would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere, the need for a mandatory EIA arises. The proposal is for the development of a supermarket on a site with an area of 0.9 hectares. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- The town core zoning objective and retail strategy prioritise the reuse of existing buildings. Cootehill has many vacant buildings and yet the proposal would entail the construction of a new building on a brownfield site. This building would be orientated onto Station Road with only a token pedestrian link to Market Street, where established commercial properties are concentrated. Its elevated siting, elongated form, and utilitarian design would compete with/detract from the adjacent St. Michael's Church, which greets road users approaching the town centre from the south-east.
- In advance of a detailed Masterplan for the backland area to the south-west of the site, the proposal would be premature, specifically as the layout of its access road may not link with a proposed new back street. Neither the TIA nor the RSA address the future use of this access road by non-Aldi traffic and the Audit fails to address the need for cycling provision. How it would be made available to other users remains to be clarified.
- Under the proposal, a side wall to the front lawn to the Courthouse would be demolished and part of this lawn would be incorporated in the pedestrian access to the proposed foodstore from Lower Market Street. This lawn

contributes to the setting of the Courthouse, a protected structure, and so its partial loss would contravene Objective BH05 of the CDP, which seeks the protection of such spaces.

Within 100m of the site, there are 18 heritage buildings of architectural merit and yet no archaeological assessment has been undertaken of the proposal. The planner's report does not assess the proposal in the light of the proposed ACA for Lower Market Street.

- Under the proposal, site levels would be raised and yet this aspect of it has not been considered in the Appropriate Assessment undertaken.
- The Retail Planning Guidelines promote the vitality and viability of town centres, aims which would be better met by either the reuse of existing buildings or the insertion of a new building within the streetscape. Instead, the siting and orientation of the proposed foodstore would promote single destination shopping trips, e.g., it would be 500m away from the mid-point of Market Street.
- The proposal is critiqued in the light of the key principles of urban design set out in the Retail Design Guide, as follows:
 - Design quality: The proposal would be of generic design with few place making qualities.
 - Site and location: The proposal would “pull” the town core to the north-east in a manner not envisaged by the CDP and it would, potentially, jeopardise the development of the masterplan lands to the south-west. Given the scale of Cootehill, the proposal would impact existing retail trade in the town centre unduly and it would be premature in advance of any new retail strategy for the County in the revised CDP.
 - Context and character: The front and exposed side elevations of the proposed foodstore would, though glazed, be inactive (especially after hours) and so the building would be alien to the town centre, wherein the nearby Lower Market Street is proposed for an ACA.
 - Vitality and viability: The proposal would be likely to dominate rather than diversify shopping in the town centre. The scale of not only

convenience but also comparison goods would negatively affect existing smaller independent shops.

- Access and connectivity: The site is relatively remote from the retail centre of the town on Upper Market Street and the proposed pedestrian link to Lower Market Street would be only a token gesture.
- Density and mixed-use: Insofar as the proposal would have no residential content, the opportunity for activity and informal surveillance that comes with “living over the shop” would not transpire.
- Public realm: No contribution would be made in this respect.
- Built form: The mass of the elevations would be unrelieved, and they would be out of sympathy with surrounding architecturally important buildings.
- Environmental responsibility: No information has been submitted with respect to either energy conservation or biodiversity measures that may be incorporated into the proposal.
- Wheel clamping would be likely to operate to the detriment of multi-destination trips by car users.
- Sustainable construction: The adaptability of the proposed foodstore to other uses in the future is open to question.

7.2. Applicant Response

The applicant begins its submission by drawing attention to the appellant, which is a representative body of other convenience store operators, and to the advice of the Retail Planning Guidelines that the role of the planning system is to support competitiveness and choice in the retail sector commensurate with promoting the vitality and viability of town centres.

The applicant proceeds to interact with the provisions of the recently adopted CDP. It makes the following points:

- The site is zoned town core, and its proposed retail use is permitted in principle.

- Cootehill needs “targeted catch-up investment to become more self-sustaining.” The proposal represents just such investment.
- The development of town core backlands, such as the site, is strongly supported. The proposal would be an example of such development.
- The CDP states that “There is scope for additional convenience retail within the town particularly aimed at addressing the extent of retail leakage to other neighbouring centres. An additional convenience retail facility would be best sited in a location that could provide footfall along the main shopping streets, while being sensitive to the architectural heritage.” The proposal would fulfil these objectives.
- Commercial and Retail Development Objective (CR 06) supports “the delivery of an anchor convenience retail outlet in or adjacent to the town core.” The proposal would fulfil this Objective.
- The proposal would further the objectives of Masterplan Area 2 for Cootehill. Thus, e.g., Objective CRP 06 would be furthered, “To promote the regeneration of the backlands of Cootehill in accordance with completed Masterplans in the town in a sustainable manner.”
- Under the County’s Retail Strategy 2021 – 2028, Cootehill is classified as a Tier 2 town. The site overlaps with the retail core of the town and, under the proposal, this core would effectively be extended. Consequently, the need for a sequential test does not arise.

The Strategy estimates that an additional 2925 sqm of convenience would be required in the County by 2028 and it envisages that Cootehill would be a settlement well-placed to receive some of this additional floorspace. This Strategy states that “there would appear to be some scope for additional convenience retail within the town, particularly aimed at addressing the extent of retail leakage to other neighbouring centres. An additional convenience retail facility would be best sited in a location that could provide footfall along the main shopping streets, while being sympathetic to the architectural heritage.”

The applicant's Quantitative Assessment finds that the proposal would not have any significant adverse impact upon existing retailers in the town centre. Likewise, it would not have any material impact upon retailing in Cavan town. Instead, expenditure leakage from Cootehill to Cavan town would be eased and sustainability would be promoted.

The applicant responds to the appellant's grounds of appeal as follows:

- Description of the proposal

While the term "discount foodstore" is not used in the Retail Planning Guidelines to distinguish such foodstores from other convenience stores, the use of this term is valid, insofar as it explains the retail offer proposed, i.e., one in which discounted prices are predominant. Its use has previously been accepted by the Board.

- Archaeological appraisal

The applicant draws attention to the absence of an archaeological appraisal of the site. At the appeal stage, such an appraisal has been submitted, which confirms that there are no recorded archaeological monuments within the site, and it does not lie within a formal zone of archaeological potential.

Accordingly, the appraisal concludes that this site is of low archaeological potential and so a pre-construction programme of archaeological testing would be appropriate.

- Heritage impact/protected structures

Attention is drawn to the Architectural Heritage Impact Assessment (AHIA) submitted at the application stage, which discusses the impact of the proposal upon adjacent protected structures and the Lower Market Street ACA, which overlaps with the proposed pedestrian link to the site from Lower Market Street.

The AHIA notes that the proposed foodstore would be sited in a recessed position on the site and its setting would be landscaped. Accordingly, it would not compete with prominent adjacent protected structures, and it would be visually assimilated into their backdrops. The design and appearance of the proposed foodstore would improve the visual amenity of the site.

The aforementioned pedestrian link would entail the removal of a stone pier. While this would have a minor negative impact, it would facilitate the provision of a more satisfactory link. (The AHIA recommends that this pier be repurposed for reuse elsewhere on the site). This link would be accompanied by a low internally illuminated sign, which would be compatible with the setting of the Courthouse.

The proposal would improve the vitality and viability of the town centre, which in turn would facilitate the achievement of heritage objectives therein.

- Impacts from changes to site levels

The appellant states that the applicant's Screening for Appropriate Assessment failed to take into account the impact of changes to site levels that would arise under the proposal. The applicant has, thus, submitted a revised Screening, which takes account of these changes.

- Pedestrian connectivity

The appellant's critique of the proposed pedestrian link as "a token gesture" is challenged on the basis that it would be a key component of the development, which would facilitate significant pedestrian movement.

- Access road/cyclist accommodation

Under further information, the applicant revised the proposal to make more extensive provision for pedestrians/cyclists. A Stage 1/2 RSA has been undertaken and all its recommendations have been incorporated in the design of the proposal. A Stage 3 RSA has been conditioned by the Planning Authority, which the applicant would undertake, too.

- Regeneration and vacancy

The appellant draws attention to vacant properties on Market Street. However, the nature and scale of these properties would militate against their conversion by the applicant. Instead, their reuse would be promoted by an increase in the vitality and viability of the town centre, which the proposed foodstore, as a new anchor, could be expected to bring.

- Retail and town centre objectives of the CDP

Contrary to the appellant's view, the proposal would consolidate and enhance the town centre, as it would result in an all too rare development of an assembled site to provide a foodstore in accordance with national and local planning policies and objectives.

Contrary to the appellant's view, the proposal would not encourage single destination shopping trips, as it would incorporate a pedestrian link with Lower Market Street.

While the proposal would "pull" the town centre north-eastwards, far from being a problem, such "pull" would help provide a better balance in the distribution of retail outlets in this centre.

The appellant expresses the concern that the impact of the proposal on retailing within the town centre would be disproportionate, given the size of Cootehill. However, in its absence, the leakage of retail expenditure to larger towns, such as Cavan, which is 25 km away, would continue unabated. While this proposal would lead to greater competition within the town, this would accord with the advice of the Retail Planning Guidelines.

The proposal would incorporate a means of access from Station Road that would begin to provide the link road envisaged by the Cootehill Masterplan 2. This means of access would be capable of being extended in the future and with it the development of lands to the rear of properties on Market Street would be facilitated.

7.3. Planning Authority Response

- The term "discount foodstore" is considered to be a valid one, as the applicant operates as a discount retailer.
- The proposal would accord with the town core zoning of the site.
- The proposal represents plan-led development.
- The proposal is compatible with the ACA.

- The proposal would be compatible with the setting of St. Michael's Church, a protected structure, due to the recessed siting of the foodstore, the routing of the means of access between the Church and this foodstore, and the enclosure of the common boundary with a stone wall.
- The site lies within the town core zoning and so it is functionally separate from the aforementioned Church.
- Confidence is expressed that the finished floor level of the proposed foodstore would be compatible with a continuation in the prominence of the aforementioned Church.
- The proposed removal of a shed and the repair of the Courthouse wall would facilitate the provision of the proposed pedestrian link. The setting of the protected structure would be able to accommodate this link satisfactorily.
- The proposed pedestrian link would facilitate synergies between the proposed foodstore and existing retailers on Market Street: It would, therefore, be more than "a token gesture".
- Contrary to the appellant's view, the proposal would further many of the goals set out in the publication "Town Centre First: A policy proposal for Irish Towns".
- The proposed means of access would further the link road envisaged under Masterplan 2 for Cootehill.
- As revised, the aforementioned means of access would include a 3m wide pedestrian/cyclist route to the north-west and a 2m wide footpath to the south-east.
- While the site is not within an identified area of archaeological interest, a precautionary approach involving pre-construction testing maybe deemed to be appropriate.
- The site is within an urban area and at a considerable remove from any European Sites. No Appropriate Assessment issues would arise.

7.4. Observations

None

7.5. Further Responses

The appellant has responded to the applicant's response to its grounds of appeal, as follows:

- Zoning

The proposal would be a standardised development, which would be an unsympathetic addition to its context of fine-grained buildings and protected structures. Consequently, the zoning objective for the site, which seeks to "protect and enhance the special physical and social character of the town core", would not be fulfilled.

- Masterplan

Attention is drawn to the Masterplan for the town, which is composed of two parts, i.e., No. 1 to the north-west of Market Street, which envisages the development of coarse-grained buildings, and No. 2 to the south-east, which envisages the development of fine-grained buildings, i.e., so as not to compete with protected structures, such as St. Michael's Church.

Consequently, the proposal for a site within No. 2 is misplaced. Due to its scale and mass, it would be appropriately located in No. 1.

Attention is also drawn to Part 2 of the Masterplan, which shows a new urban square to the south of the site. This square would afford views of St. Michael's Church and it would be accessible to pedestrians. It is unclear if such access would be available once the proposed foodstore is closed in the evening.

- Retail Strategy

Apart from the pedestrian link from Lower Market Street, the remainder of the site lies outside the retail core of Cootehill. By contrast, Masterplan Part 1 lies entirely within this area. Insofar as the majority of the site lies outside the retail core, the proposal should have been the subject of the sequential test.

The quantum of convenience retail floorspace envisaged as being necessary for the County as a whole is 2925 sqm. The proposal would have a net retail floorspace of 1333 sqm or 45.5% of this total. Cootehill is a small town and the allocation of so much floorspace to it would create an adverse precedent for such towns.

Cootehill is the smallest of the Tier 2 towns in the Retail Strategy, i.e., it is border line Tier 3. While the need for additional convenience retail floorspace is acknowledged, this is circumscribed, particularly by Section 8.1.4 of the Strategy, which places a cap of 1000 sqm on the addition of such floorspace otherwise the primacy of Cavan Town may be undermined.

The applicant's Quantitative Assessment is not a full Retail Impact Assessment, i.e., it does not undertake a sequential exercise, it does not interact with the above cited aspects of the Retail Strategy, and it allocates without justification a turnover of €8000 rather €10,000 per sqm to the proposal, thereby distinguishing it as a discount foodstore rather than a convenience foodstore.

Linked trips would be threatened by the applicant's policy of actively enforcing the clamping of vehicles that are parked for longer than the allotted time.

- Screening for Appropriate Assessment

The updated Screening was not available to the Planning Authority when it carried out its assessment in this respect.

The updated Screening concludes that there is no hydrological link between the site and any water bodies that are connected to European Sites. This conclusion is contested: The Cootehill WWTP has not been assessed in this respect.

- Architectural heritage and archaeological assessments

Additional photomontages are needed, e.g., looking south from the site towards St. Michael's Church.

The AHIA does not interact with the Masterplan or assess the impact of the proposed car park.

The removal of a stone pier and lean-to structure from the side of the Courthouse and the installation of a corporate sign would have a serious negative impact upon this protect structure.

Given the historic context of the site, an archaeological assessment of it prior to a decision on the current application should have been undertaken.

- Transport report

While the applicant proposes that the means of access to the site would be “taken in charge” by the Planning Authority, the timing of its hand over is unclear, as is its extent, i.e., would it extend to the site’s boundaries?

The TTA does not interact with the Masterplan.

Ambiguity surrounds the provision of the various means of access to DMURS standards, i.e., the TTA says that this “can” be done, but it does not confirm that under the proposal as submitted compliance would be achieved.

- CGI views

These views have been submitted without accompanying existing views.

- Landscape plan

The amount of planting proposed would be insufficient to screen the proposal or significantly soften its presence.

In particular, the tree planting along the south-eastern roadside elevation would simply highlight this bland elevation, which would fail to animate the new street envisaged by the Masterplan.

The Planning Authority has responded to the applicant’s response to its grounds of appeal, as follows:

- The recently adopted CDP identifies the need for additional convenience retail floorspace in Cootehill, to stem expenditure leakage to other centres, and it explicitly endorses the location of an anchor convenience retail outlet in the town core.
- As the proposal would comply with the policies and objectives of the CDP, a retail impact assessment is not necessary.

- The proposal would meet the key message of the Retail Planning Guidelines that competitiveness and choice in the retail sector be promoted.
- The Planning Authority accepts that the removal of the stone pier would be justified insofar as it would facilitate a pedestrian link between Lower Market Street and the proposed foodstore.
- The Planning Authority accepts the findings of the applicant's archaeological appraisal.
- The Planning Authority accepts the applicant's response to the question of vacant commercial properties in the town centre.
- The Planning Authority accepts the conclusion of the applicant's updated Screening for Appropriate Assessment.
- The Planning Authority accepts that the proposed link road would have sufficient capacity to handle both traffic generated by the proposed foodstore and other uses to the south-west, which may arise in the future. Attention is also drawn to conditions nos. 4, 5 & 7 attached to its permission, which relate to this road, i.e., its standard of construction, supervision of its construction, and a Stage 3 RSA.
- Condition no. 3 attached to the Planning Authority's permission requires that specific details of the proposed landscaping scheme be agreed.
- The proposal would be successful in balancing and progressing CDP objectives for the town centre and so the Board is urged to support it.

8.0 **Assessment**

8.1. I have reviewed the proposal in the light of relevant national planning guidelines, the Cavan County Development Plan 2022 – 2028, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Need,
- (ii) Retail policy,
- (iii) Retail core, zoning, and the masterplan,

(iv) Archaeology, conservation and visual amenity,

(v) Traffic, access, and parking,

(vi) Water and plant, and

(vii) Appropriate Assessment.

(i) Need

- 8.2. Under the recently adopted CDP, Cootehill is categorised as a self-sustaining town in the County's settlement hierarchy, i.e., these are towns "with high levels of population growth but which require targeted "catch-up" investment to become more self-sustaining." The applicant has identified its proposal as an example of just such investment.
- 8.3. The applicant has submitted a Quantitative Assessment (QA) of the need for its proposal. This QA adopts the convenience expenditure per capita figures of the County Retail Strategy 2021 – 2028 (CRS), even though these are considered to be "very low and a significant under-estimation", i.e., €3039 by 2024. It estimates that the catchment population of Cootehill lies within 15 minutes travel time of the town, i.e., this would be 9381 by 2024. Consequently, the available convenience expenditure would be €28,511,853.
- 8.4. The QA assumes that the annual turnover of its proposed discounted foodstore would be €8000 per sqm in 2024. The appellant has challenged this figure on the basis that a higher figure of €10,000 per sqm is used for the existing Supervalu in Cootehill. The QA seeks to justify its lower figure by stating that "It is generally accepted that discount foodstores tend to have a lower turnover than conventional supermarkets due to their lower prices and the more limited range of products sold." Given that the proposed discount foodstore would have a net retail floorspace of 1333 sqm, the QA estimates that annual turnover would be €10,664,000 or 37.4% of available convenience expenditure in the catchment area. The QA estimates that existing convenience floorspace has an annual turnover of €8,280,000 or 29% of available convenience expenditure in the catchment area. Accordingly, even with the proposed discount foodstore, there would be considerable headroom remaining, i.e., €9,567,853 or 33.6%.

- 8.5. By way of comment on the above figures, I note that if a higher convenience expenditure per capita figure were to be adopted, then the available convenience expenditure in the catchment area would increase correspondingly and hence the headroom. I note, too, that if the same annual turnover per sqm figure were to be adopted for the proposed discount foodstore as the existing Supervalu, then based on the submitted figures headroom would still remain, albeit it would be reduced to €6,901,853 or 24.2%.
- 8.6. I conclude that the applicant has established that there is a need for additional convenience floorspace in Cootehill. Insofar as its proposal would provide such floorspace, the case for it, in principle, has been demonstrated.

(ii) Retail policy

- 8.7. National retail policy is set out in the Retail Planning Guidelines and local retail policy is set out in the Cavan County Retail Strategy 2021 – 2028 (CRS), which is included under Appendix 2 of the recently adopted CDP. Retail Development Objective ER 01 of the CDP undertakes to ensure that all retail development permitted accords with these documents. Cootehill Commercial and Retail Development Objective CR 01 of the CDP undertakes to “Sustain and enhance the retail and services offer of Cootehill town centre in line with the County Retail Strategy.”
- 8.8. Under Table 7.10 of the CRS, it is estimated that by 2028 an additional 2925 sqm of convenience retail floorspace would be needed in the County and that, whereas this floorspace would be most likely to be located in Cavan Town, under the CRS both Ballyjamesduff and Cootehill “appear to have capacity (for it) and this may allow for more sustainable development and reduced retail leakage”.
- 8.9. The CRS classifies Cavan Town as a Tier 1, primary retail centre, in the retail hierarchy. Cootehill is classified as one of five larger towns, which are in Tier 2, key support retail centres. The appellant draws attention to the commentary that the Strategy presents, based on the distinction between Tiers 1 and 2, to the effect that “it would be advisable that proposals for new or extended convenience operations within the Tier 2 towns do not exceed 1000 sqm, as otherwise they may undermine the primacy of Cavan Town.”
- 8.10. Under Table 6.6 of the CRS, information from 2016 on retail floorspace in Cootehill is provided as follows:

Convenience	663 sqm	17%
Comparison	1417	36%
Retail services	1410	35%
Vacant	473	12%
Total	3963	100%

The Strategy comments on the unusually low proportion of convenience floorspace relative to comparison and retail services floorspace and on the moderate to low level of vacancies. Its Shoppers Survey indicated that “a relatively high proportion of respondents...regularly visit Cavan Town for convenience shopping.” The Strategy adds that “Cootehill’s location at the eastern edge of Cavan also makes leakage into Monaghan very likely.” In fact, Monaghan Town is 21.7km away, whereas Cavan Town is 25km away.

8.11. The CRS recognises that there is one main convenience operator in Cootehill at present, i.e., Supervalu, along with several smaller convenience outlets. It states that “there would appear to be some scope for additional convenience retail within the town, particularly aimed at addressing the extent of retail leakage to other neighbouring centres.” Cootehill Commercial and Retail Development Objective CR 06 of the CDP translates this observation into the following clear-cut objective, “Support the delivery of an anchor convenience retail outlet in or adjacent to the town core.”

8.12. I note that the CRS identifies the need for additional convenience floorspace in Cootehill and the CDP commits to support the delivery of such floorspace by means of an anchor convenience retail outlet. The applicant’s proposal would, in principle, be acceptable in these respects. I note, too, the CRS’s advisory cap of 1000 sqm upon the extent of additional convenience floorspace, due to concern over the need to safeguard Cavan Town’s Tier 1 standing in the retail hierarchy. In 2016, the CRS records that Cavan Town had 11,758 sqm of convenience floorspace compared to Cootehill’s exceptionally low 663 sqm. Under the proposal, 1333 sqm would be added to Cootehill’s convenience floorspace and so it would increase by a factor of 2 to 1996 sqm. Even so, this new total would only represent 17% of the convenience

floorspace in Cavan Town. The CRS acknowledges that, due to the location of Cootehill in a position that is effectively equidistant between Cavan and Monaghan Towns along the R188, some of the expenditure leakage from the town goes to these Towns, both of which have several major foodstores. In these circumstances, any displacement of existing expenditure arising from the proposal would be shared between them and so I do not consider that Cavan Town would be unduly affected. Accordingly, I do not take the view that the advisory cap needs to be insisted upon.

- 8.13. I, therefore, conclude that the principle of the proposal would accord with the retail policies of the CRS and the CDP, and its size would be justifiable within the specific circumstances pertaining to Cootehill.

(iii) Retail core, zoning, and the masterplan

- 8.14. The Retail Planning Guidelines advise that CDPs should show the boundaries of core shopping areas within town centres. In this respect, the Strategy includes a map of the town centre with superimposed upon it the core retail area. This Strategy supports the development of this area and the application of the sequential approach to retail proposals for sites outside it.
- 8.15. The subject site straddles the boundary of the core retail area shown in the CRS, i.e., its north-western portion would lie within this boundary. Under the proposal, this portion of the site would be laid out to provide car parking and a pedestrian link with Lower Market Street. The proposed foodstore would be sited immediately to the south-east of it. In these circumstances, the appellant considers that this proposal should be the subject of the sequential test. Neither the applicant nor the Planning Authority agree.
- 8.16. The Retail Planning Guidelines do not address the scenario presented by the proposal wherein a site straddles the boundary of a core retail area. In these circumstances, I will take a view on whether a sequential test is needed, once I have reviewed the zoning of the site and the Masterplan for Cootehill town centre.
- 8.17. Under the CDP, the site is zoned “town core” within which the relevant zoning objective is to “Protect and enhance the special physical and social character of the town and village core while providing and/or improving town/ village centre facilities.” Retail uses (local and major) are “permitted in principle” under this zone.

- 8.18. The proposal is for a discount foodstore. Accordingly, as a retail use, it is permitted in principle. Nevertheless, the appellant states that, as a new build foodstore, it would fail to fulfil the zoning objective for the site. It considers that this proposal would fail to protect and enhance the special physical and social character of Cootehill, as the opportunity to convert existing vacant retail/commercial properties on Market Street would not be realised under it. The applicant has responded by stating that these properties would not provide the needed extent and continuity of floorspace that its retail operations would require. Nevertheless, it envisages that its proposal would be a catalyst in promoting the vitality and viability of the town centre and so the prospect of these properties finding new uses would be enhanced in its presence.
- 8.19. The appellant states that the proposal would “pull” economic activity in the town centre to the north-east to a site off Lower Market Street, whereas the centre of such activity is on Upper Market Street. In this respect, the proposed pedestrian link is viewed as being tokenistic, and the concern is expressed that, in practise, the proposal would function as a single destination site, e.g., the applicant’s strict parking policy would discourage linked visits to the town centre.
- 8.20. The applicant has responded by expressing the view that its proposal would help to “rebalance” economic activity in the town centre more evenly. It draws attention to the largely backland nature of the site, which, it is an objective of the Planning Authority to see developed. It observes that such development is often difficult, due to the need for site assembly from multiple ownerships. However, in the current case such assembly has been secured and so the opportunity for development exists. The applicant insists that the pedestrian link would be an attractive and accessible route to and from the wider town centre and so it anticipates its active use in practise.
- 8.21. The applicant has not commented upon its car parking policy. Clearly, if free parking is only available for a short length of time, e.g., the average length of a shopping trip to Aldi, then the opportunity to promote linked trips to other town centre retail outlets would be curtailed. Accordingly, the optimisation of synergies identified by the applicant as resulting from its proposal would be curtailed. In these circumstances, the length of free parking stays is a matter of importance for the wider vitality and viability of the town centre and so I consider that it should be conditioned. In this respect, such stays should be available for 3-hour long visits.

- 8.22. The appellant discusses the two-part Masterplan for Cootehill town centre, which was first referred to under the former CDP for 2014 – 2020 and which is referred to under the current CDP for 2022 – 2028. Part 1 of this Masterplan is for lands to the north-west of Market Street and Part 2 of it is for lands to the south-east of this Street, including the south-western tip of the site. (However, the indicative models depicted in the Masterplan effectively envisage the majority of the site as being developed). The appellant states that coarse grained development is envisaged for the lands comprised in Part 1, but only fine-grained development is envisaged for lands comprised in Part 2, due to the protected structures which lie in their vicinity. It, therefore, contends that the proposal would be contrary to the urban design approach adopted by the Masterplan.
- 8.23. I have reviewed the Masterplan. Urban squares are envisaged in both Parts 1 and 2 and these squares would be enclosed by two/three storey buildings, which would be the subject of mixed usage, including explicitly retail uses on Part 2 lands. Part 2 considers two alternative scenarios, i.e., A, which would entail the retention of the GAA grounds to the south of the applicant's site, and B, which would entail the relocation of the GAA grounds, and their redevelopment to provide a retail supermarket, amongst other things. The current CDP states that only scenario A is now being considered.
- 8.24. From the above review, I note that retail uses are envisaged for Part 2 lands, and that, while a retail supermarket was envisaged under scenario B, in the absence of this scenario, it is not at all evident that the provision of one under scenario A would be objectionable in principle. In this respect, rows of two/three storey buildings are shown indicatively in the south-eastern portion of the site opposite St. Michael's Church, these rows would be along one side of an access road from Station Road, and they would be accompanied by a pedestrian link to Lower Market Street. The present proposal would depart from the envisaged rows insofar as a single large but, at 6.4m, a relatively low building would be constructed in a recessed position. However, this building would be sited alongside the proposed access road, and it would be served by a pedestrian link to Lower Market Street. Whether this proposal would be appropriate from aesthetic and conservation perspectives are questions which I discuss under the fourth heading of my assessment. I do not consider that the Masterplan forestalls such discussion in advance by virtue of its provisions.

- 8.25. Returning to the question of the position of the site with respect to the retail core of Cootehill town centre and the need or otherwise for a sequential test, I consider that in view of the town core zoning of the site, which permits in principle the proposed retail use, the acceptance by the Masterplan of retailing within the site, and the pedestrian link that would be provided to Lower Market Street, the effect of the proposal would be to extend the retail core of the town centre over the entire site. While some redistribution of economic activity within the town centre may ensue, provided synergies between the proposal and existing retail outlets are promoted, the overall vitality and viability of Cootehill would be enhanced. I, therefore, consider that the need for a sequential test does not arise.
- 8.26. I conclude that the proposal would be acceptable in principle under the CDP's zoning of the site and the Masterplan's aspirations for the same.

(iv) Archaeology, conservation, and visual amenity

- 8.27. As originally submitted, the application was not accompanied by an archaeological appraisal. The Department of Housing, Local Government and Heritage was consulted by the Planning Authority. It advised that, given the scale and backland siting of the proposal, sub-surface remains may exist and so a condition requiring pre-development testing is recommended. Such a condition was subsequently attached to the Planning Authority's permission, i.e., Condition No. 18. Nevertheless, the appellant expresses concern that no archaeological appraisal of the site was undertaken, and it expresses the view that one is needed prior to a decision on the application.
- 8.28. At the appeal stage, the applicant submitted an archaeological appraisal, which confirms that there are no recorded archaeological sites either in the site or within its vicinity and it is neither in a Zone of Notification for such sites nor a Zone of Archaeological Potential. This appraisal reviews historic maps and aerial photographs of the site, and it is informed by a site visit. These sources do not indicate that archaeological remains are likely. It, therefore, concludes that, in these circumstances, the Planning Authority's Condition No. 18 is appropriate.
- 8.29. The applicant has submitted an Architectural Heritage Impact Assessment (AHIA) of the proposal. This AHIA identifies protected structures and buildings identified in the NIAH, which are in the vicinity of the site.

- 8.30. The site occupies largely a backland position. Insofar as it presently has street frontage, this is onto Lower Market Street, to the south-west of the Courthouse, and onto Station Road, to the north-west of St. Michael's Church. These buildings are protected structures, i.e., reg. nos. CV17027 & 031, and they are on the NIAH, i.e., nos. 40308002 & 8007. Given their close relationships to the site, their settings could potentially be affected by the proposal. Other projected structures/buildings in the NIAH are identified in the AHIA on Lower Market Street/Station Road. However, their rear yards separate them from the site and so the proposal would have no significant affect upon them.
- 8.31. The AHIA discusses the impact of the proposal upon the Courthouse. An existing rear yard to this Courthouse would be subsumed within that portion of the site that would be laid out as a car park. The AHIA expresses the view that this yard did not form part of the original curtilage or attendant grounds to the Courthouse and so its development as proposed would be acceptable. The Courthouse faces north-west onto Lower Market Street and the proposed foodstore would be sited to its south south-east. Accordingly, from this Street they would not be seen together. (Likewise, the street-fronted buildings to the south-west of the Courthouse would hide views of this foodstore).
- 8.32. The AHIA acknowledges that the construction of the proposed pedestrian link would entail the widening of an existing means of access to the rear of the adjacent house to the south-west. This widening would require the removal of a stone gate pillar and a wall, which presently enclose the south-western boundary of the grounds to the front of the Courthouse, and a contraction in the extent of these grounds. Likewise, a single storey lean-to structure to the side of the Courthouse would be removed. No replacement means of enclosure are proposed. Tourist signage along the streetside boundary of the front grounds would be re-sited further to the north-east and a stone panel with an internal illuminated Aldi sign would be sited immediately adjacent to the westernmost corner of the Courthouse and within the pedestrian link.
- 8.33. The AHIA recognises that the removal of the stone gate pillar and an associated wall would be a minor negative impact. However, the view is taken that this impact would be justified insofar as it would facilitate the formation of an attractive and accessible pedestrian link. (The removal of the single storey lean-to structure would be in order as this structure is of utilitarian design and relatively recent origin). The view is also

taken that the proposed freestanding signage would be compatible with the setting of the Courthouse.

- 8.34. The AHIA does not discuss the impact of the re-sited existing signage, which comprises a row of three separately mounted tourist information signs. At present this signage obscures views of the principal elevation of the Courthouse and its proposed re-siting would obscure such views still further. *Prima facie* the opportunity to improve this situation would exist with the provision of the publicly accessible pedestrian link. The re-siting of this signage to a position beside the side elevation of the adjacent house to the south-west would remedy this situation and it would offset any new impact that the proposed Aldi sign would have upon the setting of the Courthouse. It should, therefore, be conditioned.
- 8.35. The AHIA discusses the impact of the proposal upon St. Michael's Church. The proposed means of access from Station Road would be constructed along the south-eastern boundary of the site with the grounds of this Church. This access would rise initially at a gentle gradient before levelling off beside the proposed foodstore. This boundary would be enclosed by means of a new 1.2m high stone wall. While the finished floor level would be slightly higher than that of the Church's, its recessed siting in the south-western half of the site, 75m away from Station Road, would ensure that its profile from this Road would be limited.
- 8.36. On the approach to the town centre along Station Road, St. Michael's Church is a prominent landmark building. The appraisal of it in the NIAH states that the presentation of this Church is "akin to that of cathedral architecture on a slightly reduced scale". It occupies an elevated siting in relation to Station Road, which is wholly forward of the siting of the proposed foodstore, i.e., its rear building line would be forward of the front building line of the foodstore in relation to Station Road. Consequently, insofar as there would be views of the two buildings together from this Road, the Church would retain its dominance and the foodstore would appear as a modern relatively low-rise building in its background. The setting of the Church would change thereby from being one wherein unattended backland sites exist to one that is subject to orderly development. The proposal would thus be compatible with the continuation of this Church's prominent landmark role on the approach to the town centre.

- 8.37. To the north-west of the proposed access point from Station Road, there is a detached dwelling house and a Garda station, which is a protected structure (reg. no. CV44021) and a building identified in the NIAH (no. 40308006). The applicant's submitted continuous north-eastern elevation of the proposal shows these two buildings with the proposed foodstore to the rear of them. The proposed car park would lie between the rear yards to these buildings and the foodstore. Existing vegetation would be retained on the site to the rear of the house plot and tree planting would be undertaken to soften the interface between the Garda station and the site. Elsewhere tree planting would be undertaken beside existing/proposed walled-in site boundaries to the north-west and to the south-west.
- 8.38. The Cootehill ACA encompasses the Courthouse and the adjacent house to the south-west, along with other buildings at the foot of Lower Market Street. This Area overlaps with the site insofar as it includes the rear yard to the Courthouse, discussed above, and the rear yard to the adjacent house to the south-west. Under the proposal, new walls would be constructed across these yards. The AHIA states that these walls would be compatible with the maintenance of the conservation interest of the buildings which they served.
- 8.39. The appellant critiques the proposed food store on the basis that its design would be generic, its mass would be unrelieved, and it would be an unsympathetic addition to its historic context. The applicant has responded by drawing attention to the existing neglected state of the site, and it contends that by comparison its proposal would enhance the visual amenities of the area.
- 8.40. The submitted plans show that the proposed foodstore would be of modern design. Its public north-eastern and south-eastern elevations would comprise extensive glazing and a mixture of pre-cast concrete and stone clad panels. The mass of the foodstore would thereby be relieved. The use of stone would acknowledge the historic context of the site. In this respect, its impact would be enhanced if the internally illuminated Aldi sign were to be omitted, by condition, from the stone clad panel on the north-eastern elevation. During my site visit, I observed that the context of the site, while largely composed of historic buildings, does include the town's post office, which is sited to the north-east of the Courthouse and which is of modern design, not so dissimilar to that of the proposed foodstore.

- 8.41. The south-eastern elevation of the proposed foodstore would present to the access road, which would extend to the south-western boundary of the site. Glazing in this elevation would afford the opportunity for this roadside to be illuminated. The appellant expresses concern that its animation by means of window displays would not occur, due to the internal layout of the foodstore. The applicant proposes to plant trees alongside this elevation, which would distract from the lack of such animation. In practise, the exposure of the public to it would be limited until such times as the access road is extended further to the south-west into adjoining lands and development occurs there, too.
- 8.42. Elsewhere on the site, the visual impact of the car park would be relieved by its “L” shape in plan-view, and its sub-division by means of landscaping. Aldi signage would entail the erection of a double-sided pole sign at the entrance to the car park from the proposed access road and a freestanding sign set within a stone panel adjacent to the proposed access point from Station Road. A further sign would be installed at the entrance to the foodstore itself. However, as this sign would duplicate the pole sign, it should be omitted by condition.
- 8.43. I conclude that it would be appropriate for the site to be the subject of archaeological investigation prior to the commencement of development. I conclude, too, that, subject to some adjustment and rationalisation of signage, the proposal would be compatible with the maintenance of the conservation interest of protected structures in the vicinity of the site and the overlapping ACA. It would, likewise, be compatible with the visual amenities of the area.

(v) Traffic, access, and parking

- 8.44. The proposal would entail the development of a site that is unused and vacant at present. It would entail the provision of a new vehicular/cyclist/pedestrian access from Station Road (R190) and the construction of an associated access road to the car park, which would serve the proposed foodstore and which would also extend beyond this foodstore to the south-western boundary of the site. This extension would facilitate access to lands further to the south-west and to the south-east of the site in accordance with the Planning Authority’s Masterplan prepared for Cootehill town centre. This proposal would also entail the provision of a pedestrian access from Lower Market Street and the construction of an associated pedestrian route to

the proposed foodstore along the south-western boundary to the Courthouse and through the proposed car park.

- 8.45. The site does not presently generate any traffic. Under the proposal, traffic would be generated during the construction and operational phases. Traffic generated by the former phase has not been addressed at the application stage. It could be addressed by means of a Construction Traffic Management Plan for the site, which should be conditioned. Traffic generated by the latter phase is addressed by means of a Traffic Impact Assessment (TIA).
- 8.46. The applicant's TIA draws upon a traffic survey of Station Road, which was undertaken on Friday 21st February 2020, and which included the pm peak. (As the proposed foodstore would not open before 09.00 the am peak was not considered to be relevant). This TIA also draws upon trip generation information available from TRICS and it utilised PICADY9 modelling of the junction between Station Road and the proposed access road to the site. To ensure a "worst case" scenario, peak trip generation figures from between 11.00 and 12.00 were combined with the pm peak and, in anticipation of the proposed access road's future extension south-westwards, an allowance was included for traffic that would be generated by the town's GAA grounds to the south-west of the site. An opening date for the proposed foodstore in 2023 was assumed and traffic growth figures up until this year were factored-in. The aforementioned junction performed well under this scenario with the highest RFC occurring on the exit lane on the proposed access road onto Station Road, i.e., 0.52.
- 8.47. Under further information, the applicant submitted a revised design for the proposed access road, wherein, amongst other things, the initial carriageway was reduced in width by 1m from 7m to 6m and the accompanying foot/cycle path on its north-western side was increased in width from 2m to 3m. (A 2m wide footpath would accompany the south-eastern side of this carriageway). This access road and the proposed car park were the subject of a Stage 1/2 RSA, the recommendations of which were accepted by the applicant. Under Condition no. 7 of the Planning Authority's permission, a Stage 3 RSA is to be undertaken before the access road is opened to the public.
- 8.48. The aforementioned junction would be laid out as simple priority "T" one. Station Road is the subject of a 50 kmph speed limit. Available forward visibility and

sightlines at this junction would comply with the relevant standards set out in DMURS. Likewise, these standards would be capable of being met at the new junctions which would serve the proposed car park and lands to the south-east of the site.

- 8.49. The appellant expresses concern over whether the access road would be compliant with DMURS standards and when and to what extent it would be “taken-in-charge” by the Planning Authority. The applicant has responded by indicating its willingness to achieve such compliance in the final design of the proposed access road and by stating that this road would meet the Planning Authority’s standards for “taking-in-charge”. Additionally, the submitted plans show it as extending to the south-western boundary of the site, and its construction to this boundary could be conditioned as being required prior to the commencement of use of the proposed foodstore.
- 8.50. The proposed access arrangements for operational vehicles would duplicate with those for non-operational vehicles. However, insofar as deliveries would typically occur between 06.00 and 09.00, there would be no overlap with customers. A dedicated docking bay would be laid out on the north-western elevation of the proposed foodstore for delivery vehicles to reverse into. The proposed car park would have 89 spaces of which 1 would be a set down space, 4 would be accompanied by electrical charging points, 5 would be laid out for those with mobility impairments, including 2 of the 4 with electrical charging points, and 9 would be laid out for parent and child usage. The mobility impaired and parent and child spaces would be conveniently placed for the entrance to the proposed foodstore.
- 8.51. Under CDP car and cycle parking standards for supermarkets, each 20 sqm of gross retail floorspace should be accompanied by a car parking space and each 100 sqm of gross retail floorspace should be accompanied by a cycle stand. Under the proposal, 1824 sqm of gross retail floorspace would be provided, and so 91 car parking spaces and 18 cycle stands should be provided. Under the proposal, 89 spaces would be provided, and 10 cycle stands would be provided. The former shortfall would be nominal only. The latter should be the subject of a condition requiring the provision of a minimum of 18 cycle stands. Under the CDP, too, 10% of car parking spaces should be served by electrical charging points and so 9 rather 4 spaces should be so served. This, too, should be conditioned.

8.52. I conclude that traffic generated by the proposal would be capable of being handled satisfactorily at the junction between Station Road and the proposed access road to the site. Likewise, on-site access arrangements would be satisfactory. Subject to some minor augmentations/amendments, the proposed car and cycle parking arrangements would be satisfactory, too.

(vi) Water and plant

8.53. The applicant has submitted a civil engineering report, which addresses matters to do with water.

8.54. The site lies within Cootehill town centre and a public water main lies within nearby Station Road. The applicant made a pre-connection enquiry of Irish Water in 2019, which confirmed that there would be capacity in the network and so, subject to a connection agreement, its proposal would be supplied thereby.

8.55. As originally submitted, the applicant identified a public foul water sewer within the site, which it proposed to connect to. However, under further information, contact with Irish Water resulted in the view being taken that this sewer would be unsuitable and so a diversion of the same would be needed to ensure that the proposal can be satisfactorily served. Off site, Irish Water confirmed on foot of a pre-connection enquiry in 2019 that there would be capacity in the public foul water sewerage system to serve the proposal and so a connection to the public foul water sewer in Station Road is envisaged.

8.56. The developed site would be served by a stormwater drainage system, which would intercept surface water run-off from the hard surfaces comprised in the proposal. This system would incorporate a Class 1 by-pass separator, an attenuation tank sized to cope with a 1 in 100-year rainfall event plus a 10% allowance for climate change, and a hydro-brake, which would simulate the greenfield surface water run-off rate from the site. Subsequent discharge from the site would be to the public stormwater sewer in Station Road.

8.57. The OPW's flood maps indicate that the site is not the subject of any identified flood risk.

8.58. The proposed foodstore would be served by an external plant area beside its north-western elevation. This area would be enclosed by means of a palisade fence and it would be adjacent to the north-western boundary of the site, beyond which lie

properties that appear to have residential content/be in residential use. The applicant has not provided details of the plant or its likely noise profile. In these circumstances, I consider that it should be conditioned to require that noise attenuation measures be required to ensure that any emissions are compatible with the residential amenities of the area.

8.59. I conclude that, under the proposal, no water issues would arise. I conclude, too, that the proposed external plant area should be the subject of noise attenuation measures.

(vii) Appropriate Assessment

Compliance with Article 6(3) of the Habitats Directive

8.60. The requirements of Article 6(3) as related to screening the need for Appropriate Assessment of a project under Part XAB, Section 177U of the Planning and Development Act, 2000 (as amended) are considered fully below.

Background on the application

8.61. The applicant has submitted two Screening Reports for Appropriate Assessment, one at the application stage and one at the appeal stage: they are both entitled “Appropriate Assessment Screening Report for Proposed Retail Development at Cootehill Co. Cavan” and the first is dated March 2021 and the second is dated March 2022. These Reports were prepared in line with current best practice guidance and provide a description of the proposed development and the observation that there are no European Sites within a 15km radius of the site. They share the following similar conclusions:

In conclusion, upon the examination, analysis and evaluation of the relevant information and applying the precautionary principle, it is concluded by the authors of this report that, on the basis of objective information, the possibility may be excluded that the proposed development will have a significant effect on any European Sites.

8.62. Having reviewed the applicant’s submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites.

Screening for Appropriate Assessment – Test of likely significant effects

- 8.63. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European Site(s).
- 8.64. The proposed development is examined in relation to any possible interaction with European Sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

- 8.65. The applicant provides a description of the project. In summary, the development comprises:
- The demolition and clearance of all existing structures on the site.
 - The construction of a single storey discount foodstore with a gross floor area of c. 1824 sqm.
 - A new vehicular/pedestrian access from Station Road.
 - The provision of a pedestrian/cycle access from Market Street.
 - The provision of 89 no. car parking spaces.
 - Site development works, including changes in levels, and engineering works, including the installation of SuDS.
- 8.66. The site is largely an unused and vacant backland one in Cootehill town centre.
- 8.67. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European Sites:
- During the construction phase: surface water run-off from the site, and
 - During the operational phase: surface water and waste water disposal via Cootehill WWTP.

Submissions and observations

8.68. The applicant submitted a Screening Report for Appropriate Assessment at the application stage. This Report was critiqued by the appellant on the basis that it did not take into account changes in site levels, and it did not address the hydrological link between the site and a European site, by citing the connection that would exist between the proposal and Cootehill WWTP, which discharges into the Dromore River. While at the appeal stage the applicant has submitted a revised Screening Report, the appellant's critique is mis-placed insofar as both Screening Reports include a site layout plan showing existing and proposed levels, and both discuss the Cootehill WWTP.

European Sites

8.69. The site is not located in or immediately adjacent to a European Site. The closest European Site is Lough Oughter and Associated Loughs SAC (000007), which lies c. 20km to the west of the site. There is a hydrological link between Cootehill WWTP and this SAC, insofar as this WWTP discharges to the Dromore River, which c. 4.8km downstream flows into the Annalee River and on into the SAC.

8.70. The qualifying interests of Lough Oughter and Associated Loughs SAC are as follows:

- *Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150]*
- *Bog woodland [91D0]*
- *Lutra lutra (Otter) [1355]*

The Conservation Objectives are in, the case of the first qualifying interest, to restore its favourable conservation condition and, in the cases of the second and third qualifying interests, to maintain their favourable conservation conditions.

Identification of likely effects

8.71. During the construction phase, surface water run-off from the site would be the subject of standard construction site management methodologies to minimise the risk of pollutants entering the public stormwater sewerage system, which discharges to the Cootehill WWTP.

- 8.72. During the operational phase, surface water run-off from the site would be the subject of standard SuDS methodologies, which would include the installation of a Class 1 by-pass separator, an attenuation tank sized to cope with a 1 in 100-year rainfall event plus a 10% allowance for climate change, and a hydro-brake, which would simulate the greenfield surface water run-off rate from the site. Surface water would, ultimately, enter the public stormwater sewerage system, which discharges to the Cootehill WWTP.
- 8.73. Irish Water's Annual Environmental Report 2020 on Cootehill WWTP advises that it is operating within its PE capacity. This WWTP discharges into the Dromore River. The Report compares water quality upstream and downstream of the discharge point. Raised ortho-phosphate levels were detected downstream of this point, although these could not be definitively attributed to the WWTP.
- 8.74. The Cavan County Development Plan 2022 – 2028 advises that this WWTP is the subject of an upgrade project and Irish Water has raised no objection to the project.
- 8.75. Given the distance of c. 20km between Cootehill WWTP and Lough Oughter and Associated Loughs SAC, the dilution factor available in the Dromore/Annalee Rivers would ensure that possible pollutants in water originating on the site and passing through the WWTP would not be likely to have any significant effects on the Conservation Objectives of this SAC.
- 8.76. Likewise, any in combination effects with other projects, e.g., the extension to the Abbot Ireland facility granted permission by the Board, under ABP-310206-21, would not be likely to have any significant effects on the Conservation Objectives of this SAC.

Mitigation measures

- 8.77. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening determination

- 8.78. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely

to give rise to significant effects on European Site No. 000007, or any other European Site, in view of the Site's Conservation Objectives, and Appropriate Assessment (and submission of NIS) is not therefore required.

This determination is based on the following:

- The distance between Cootehill WWTP and the European Site and the dilution factor provided by the intervening Rivers.

9.0 Recommendation

That permission be granted.

10.0 Reasons and Considerations

Having regard to:

- Retail Planning Guidelines,
- Architectural Heritage Protection Guidelines,
- Design Manual for Urban Roads and Streets,
- Cavan County Development Plan 2022 – 2028, and
- Cootehill Local Area Masterplan Parts 1 & 2,

It is considered that the applicant has demonstrated the need for its proposed discount foodstore and thus its appropriateness, as Cootehill has a low level of convenience retail floorspace at present and it consequently experiences considerable expenditure leakage to other towns. This proposal would, subject to conditions, fulfil the zoning objective for the site, which lies within the town core, and it would accord with national and local retail policies that seek to ensure that new retail development is located within the shopping cores of town centres. It would be compatible with the maintenance of the conservation interest of protected structures in the vicinity of the site and the overlapping Town Centre Architectural Conservation Area. It would, likewise, be compatible with the visual amenities of the area. Traffic generated by the proposal would be capable of being handled satisfactorily at the junction between Station Road (R190) and the proposed access road to the site. On-site access and car parking arrangements would be satisfactory, too. No water or

Appropriate Assessment issues would be raised by the proposal. It would thus accord with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 15th day of December 2021 and by the further plans and particulars received by An Bord Pleanála on the 28th day of March 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) Existing tourist information signage shall be re-sited to a position in the proposed pedestrian link beside the north-eastern side elevation of the house to the south-west of the Courthouse.</p> <p>(b) The manner in which the dismantled stone pier from the south-western boundary of the Courthouse grounds would be reused shall be shown.</p> <p>(c) The applicant's two corporate signs shall be omitted from the north-eastern elevation of the discount foodstore building.</p> <p>(d) A minimum of nine of the car parking spaces shall be served by electrical charging points.</p> <p>(e) A minimum of 18 cycle stands shall be provided.</p> <p>(f) The external plant installed beside the north-western elevation of the proposed discount foodstore building shall be the subject of acoustic housing to ensure that the noise level does not exceed 55 dB(A) rated sound level, as measured at the nearest dwelling.</p>

	<p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of good conservation practice, visual and residential amenity, and in order to promote sustainable modes of transport.</p>
3.	<p>The applicant shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930 – 2004) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her consent. The following additional requirements shall apply:</p> <p>(a) The archaeologist is required to notify the Department of Housing, Local Government and Heritage in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.</p> <p>(b) The archaeologist shall carry out any relevant documentary research and may excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.</p> <p>(c) Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the Department of Housing, local Government and Heritage.</p> <p>(d) Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and/or monitoring may be required, the Department of Housing, Local Government and Heritage will advise the applicant/developed with regard to these matters.</p> <p>(d) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with the Department of Housing, Local Government and Heritage.</p> <p>Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other archaeological interest.</p>

4.	<p>Details of the materials, colours, and textures of all the external finishes to the proposed building and all the surface finishes to the car park shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
5.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The landscaping scheme shown on drg no. 21-558-_SDA-DR-PD-GF-001, as submitted to the An Bord Pleanala on the 28th day of March 2022 shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
8.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; (b) Location of areas for construction site offices and staff facilities;

	<p>(c) Details of site security fencing and hoardings;</p> <p>(d) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	<p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>Deliveries to the discount foodstore shall only take place prior to the daily opening time of this foodstore to the public.</p> <p>Reason: To facilitate the on-site management of delivery vehicle movements and customer movements in the interest of efficiency and public safety.</p>
11.	<p>Prior to the opening of the junction between the proposed vehicular access to the site and Station Road (R190), a Stage 3 Road Safety Audit of the junction shall be submitted to and agreed in writing with the Planning Authority. Any recommendations made by this Audit shall be fully implemented and the cost of the same shall be borne by the developer.</p> <p>Reason: In the interest of public safety.</p>
12.	<p>Prior to the commencement of the use of the discount foodstore, the pedestrian link with the Lower Market Street shall be completed and made available for public use. A CCTV system shall be installed in this link and thereafter retained. Its cost shall be borne by the developer.</p> <p>Reason: In order to promote pedestrian access to and from the site in the interest of the vitality and viability of the town centre.</p>
13.	<p>Prior to the commencement of the use of the discount foodstore, the on-site access road shall be constructed to the south-western boundary of the site in accordance with the detailed standards of the Planning Authority for such works.</p> <p>Reason: To ensure that access is available to lands beyond the site in accordance with the objectives of the Cootehill Local Area Masterplan Part 2.</p>
14.	<p>All the car parking spaces shall be made available without payment for a minimum period of 3 hours for as long as the discount foodstore remains on the site, unless otherwise agreed in writing with the Planning Authority.</p>

	<p>Reason: In order to promote linked trips in the interest of the vitality and viability of the town centre.</p>
15.	<p>No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected (on the building/within the curtilage of the site) unless authorised by a further grant of planning permission.</p> <p>Reason: In order to afford the planning authority the opportunity to assess the impact of any such advertisement or structure on the amenities of the area.</p>
16.	<p>The developer shall pay to the planning authority a financial contribution of €46,380 (forty-six thousand, three hundred and eighty euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.</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>

Hugh D. Morrison
Planning Inspector

2nd August 2022