



An
Bord
Pleanála

Inspector's Report

ABP-313637-22

Development	Retain the change of use of a former wholesalers/warehouse building to the use as a shop including ancillary staff offices and canteen, car parking and associated site works
Location	Cornamaddy, Athlone, Co. Westmeath
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	22103
Applicant(s)	Corajio Trading as Mr. Price
Type of Application	Retention.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Corajio Trading as Mr. Price.
Observer(s)	None.
Date of Site Inspection	26/04/2023
Inspector	Caryn Coogan

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1.0 Site Location and Description

- 1.1. The subject site has an area of 1.75ha which is located 2.28km northeast of Athlone town centre, on land zoned for 'Mixed Use' purposes. It is located in a built up area of the town adjoining, residential, community and light industrial uses.
- 1.2. The site is accessed off the R916 (Woodville Road) which links to the National Primary Route N55 to the north and N6/M6 Motorway Dublin-Galway to the south.
- 1.3. Woodville Road (R916) forms the eastern boundary of the site on the opposite side of the R916 are housing estates, Woodville and The Orchard. To the immediate north of site is Cornamaddy National School. To the west of the site is Medtronic Athlone and the Department of Education and Skills. To the immediate south is a greenfield site, and further southwest of the site is Athlone Asylum Seeker accommodation.
- 1.3 The subject building formed part of the former Irish Cable and Wire factory (subsequently Nexans Ireland) which originally occupied the entire site area since 1971. There are two existing warehouses located within the applicant's landholding comprising of 11, 979sq.m. of commercial floorspace, with current activities associated with the buildings comprising of warehousing and distribution uses.
- 1.4. The larger warehouse (9,814sq.m.) located at the southern end of the site, operates as the warehouse/ distribution centre, supplying 60No. Mr. Price shops nationwide. It also includes a dedicated card assembly and packing facility where celebration cards are packed and repriced.
- 1.5. The second warehouse unit (3,444sq.m.) comprises the development the subject of this appeal. The retail unit is 1,834sq.m. and a secondary warehouse (2,165sq.m.) The warehouse stores seasonal products only which distributes products at certain times of the year and stores non-sold items. The retail unit (1,834sq.m.) comprises of 15% of the applicant's total commercial floor area.
- 1.6. There is a large parking area to the north of the site with mature planting along the northern site boundary.

2.0 Proposed Development

- 2.1. Retain the change of use of a former wholesalers/warehouse building to the use as a shop (1,436sq.m.) including ancillary staff offices and canteen, changes to the external finish of the building including door openings to the North, South and East elevations, carparking and associated site works.
- 2.2. The development proposes a bicycle stand at the front entrance to the building and a pedestrian walkway running from the shop entrance to the east cutting across the grassed area to link with the public footpath.
- 2.3. The breakdown of goods within the store is as follows:
 - Convenience Goods – 545.6sq.m.
 - Comparison non bulky goods- 703.6sq.m.
 - Comparison Bulky – 172sq.m.

The store comprises of 'scrambled merchandising' selling both convenience and comparison goods.

3.0 Planning Authority Decision

3.1. Decision

Westmeath Co. Co. REFUSED retention of the development for 5No. reasons.

1. To permit the development as proposed would compromise both the regeneration and rejuvenation of the defined retail core and designated Retail Opportunity sites of Athlone and would provide an unacceptable use of the type and scale proposed on a strategic site which is zoned and serviced at this out-of-town centre location. The development as proposed would therefore, if permitted, be contrary to National Policy Objective 6 and National Policy 11 of the National Planning Framework and Regional Policy Objective 6.11 of the Eastern and Midland Regional Spatial and Economic Strategy, would be contrary to Ministerial Guidelines 'Guidelines for Planning Authorities Retail Planning' and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development by virtue of the proposed use with significant convenience retailing at this out-of-town centre location would if permitted constitute adhoc, piecemeal development of a scale and type which will have material and unacceptable adverse impact on the vitality and viability of the core/ centre of Athlone. In this regard and having regard to the documentation submitted, including the Retail Impact Statement and in applying the sequential test, to permitted development as proposed would negatively impact on the strategic development of Athlone and the delivery of a plan-led hierarchy which is contrary to the provisions of the Westmeath County Retail Strategy (most notably 1,3,4 and policies RO and RP10. Athlone Town Development Plan (most notably policies P-DU2, P-RET1 and P-RET5) and the Athlone Town Development Plan (most notably Core Retail Area Policy SRP2 and policies RP1 and RP2. The development if permitted would therefore be contrary to the proper planning and sustainable development of the area.
3. Having regard to the siting of the proposed development at this out-of-town centre location, it is considered that to permit the development as proposed would pose a risk to pedestrian, cyclist and traffic safety, would pose a risk to pedestrian, cyclist and traffic safety, would be contrary to national policy on sustainable travel and would therefore be contrary to the proper planning and sustainable development of the area.
4. Having regard to the planning register records associated with the site and the nature of use undertaken on the subject site in its entirety, it is considered that to permit the development as proposed would if permitted would consolidate and intensify and existing unauthorised use/development, would set an undesirable precedent for similar development of this type in the future and would be contrary to the proper planning and sustainable development of the area.
5. The development proposed for retention including the incorporation of the illuminated window signage on the structure and advertising boards and advertising banner at the roadside entrance would be unduly prominent and obtrusive features which would seriously injure the visual amenities of the area and give rise to an unnecessary distraction to road users. Therefore, the

development if permitted would pose a risk to traffic safety, would depreciate the value of property in the vicinity, would set an undesirable precedent for similar developments of this type in the future and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning and Retail policy is cited at length in the report.
- The previous refusal on the site, reference PL20/7196, is mentioned and the current application's response to the reasons for refusal. In response to the previous refusal for the same development, a Retail Impact Assessment and a Sequential Test has been submitted by the applicant. A legal report has been submitted refuting the refusal and a Traffic Report.
- The applicant has invested €2.5M into Athlone turning the Nexans site into a national distribution centre. The proposal provides for localised shopping. There are two warehouses on site, one larger is for the distribution centre. Mr. Price comprises of scrambled merchandising with convenience goods, comparison goods and comparison bulky goods. It 11,9979sq.m. of commercial floor space relating to Mr./ Price on the total site. The retail unit functions as a picking station for the company's online store and intended to serve local need.
- The legal opinion submitted with the planning application. The distribution depot currently operates under the permission for a factory as per PL 71/126. The opinion further considers that no intensification of use has taken place considers that reason No. 4 as per PL 20/7196 is flawed and incorrect and that retention permission is not required.
- The planning authority consider the proposal is not consistent with national and regional retail policy. It is considered the proposal constitutes adhoc, piecemeal retail development at an out-of-town location which is contrary to Regional Objective 6.11. It is also contrary to Guiding Principle : Integration of Land Use and Transport set out within the RSES which identifies that larger

scale, trip intensive developments, such as retail, should in the first instance be focused into central urban locations (Refer Section 8.3 RSES).

- In terms of compliance with local policy, Joint Retail Strategy was adopted in 2019. It sets out to reinforce the retail core of Athlone town. There is a policy in place to limit retail facilities outside of the town centre to serve local needs. There are more appropriate sites in close proximity to the town centre that would be accessible to a greater catchment than the current proposal.
- The site is zoned 'mixed Use'. A sequential test was submitted with the application, noting suitability, availability and viability. Some sites were discounted due to their flood risk potential, some discounted because they were not located beside a distribution centre, and certain sites have no online presence for purchase or letting of buildings. It was considered by the planning authority that some of the sites could be suitable for the development. It was also considered the proposal will compromise competitiveness in the retail sector, and its should be refused as it would be contrary to the Council's retail policies.
- The design and layout are considered to be acceptable. The signage at the entrance is considered to be visually obtrusive and would seriously injure the visual amenities of the area. The application provides no upgrades to the entrance or the roadside boundary and there is no pedestrian or cycle connectivity to the public realm.
- The access is via an existing entrance which serves both buildings. There are 96No. carparking spaces, with 7No. staff parking spaces to the east in front of the reception area. The Area Engineer requested further Information.
- The site is not a flood risk.
- It does not fall within the scope of a mandatory EIA
- There is no potential for signifigant effects on Natura 2000.
- A refusal is recommended.

3.2.2. Other Technical Reports

- Area Engineer : Further Information is required. A Road Safety Audit is required, lighting and bicycle parking facilities
- Environmental Health Office – No objections.
- Chief Fire Officer: No objections

3.3. Prescribed Bodies

Irish water: None Received.

3.4. Third Party Observations

There was one submission, a summary of the relevant issues raised is as follows:

- The proposed development is located at an out-of-town centre location.
- Use as a convenience and comparison store represents a significant threat to the vitality and viability of the town centre. The development would serve a much wider catchment than the neighbourhood centre designation for the site.
- The proposal contravenes the strategic retail policy objectives of the Westmeath County Development Plan, which seeks to sustain the vitality of the town centre.

4.0 Planning History

4.1.1 UD-200087-

Warning Letter issued on 8th of June 2021 for unauthorised development consisting of a change of use of former Cable and Wire factory to retail use and alterations to external appearance of the building including new signage.

4.1.2 Planning Reference 20/7196

Corrajo trading as Mr. Price applied for planning permission similar to the current proposal on the site was refused planning permission.

1. To permit the development as proposed would compromise both the regeneration and rejuvenation of the defined retail core and designated Retail

Opportunity sites of Athlone and would provide an unacceptable use of the type and scale proposed on a strategic site which is zoned and serviced at this out-of-town centre location. The development as proposed would therefore, if permitted, be contrary to National Policy Objective 6 and National Policy 11 of the National Planning Framework and Regional Policy Objective 6.11 of the Eastern and Midland Regional Spatial and Economic Strategy, would be contrary to Ministerial Guidelines 'Guidelines for Planning Authorities Retail Planning' and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development by virtue of the proposed use with significant convenience retailing at this out-of-town centre location would if permitted constitute adhoc, piecemeal development of a scale and type which will have material and unacceptable adverse impact on the vitality and viability of the core/ centre of Athlone. In this regard and having regard to the documentation submitted, including the Retail Impact Statement and in applying the sequential test, to permitted development as proposed would negatively impact on the strategic development of Athlone and the delivery of a plan-led hierarchy which is contrary to the provisions of the Westmeath County Retail Strategy (most notably 1,3,4 and policies RO and RP10. Athlone Town Development Plan (most notably policies p-DU2, P-RET1 and P-RET5) and the Athlone Town Development Plan (most notably Core Retail Area Policy SRp2 and policies RP1 and RP2. The development if permitted would therefore be contrary to the proper planning and sustainable development of the area.
3. In the absence of satisfactory details submitted on file to the contrary and having regard to the siting of the proposed development at this out-of-town location, it is considered to permit the development as proposed would pose a risk to pedestrian, cyclist and traffic safety, would be contrary to national policy on sustainable travel and would therefore be contrary to the proper planning and sustainable development of the area.
4. Having regard to the planning register records associated with the site and the nature of use undertaken on the subject site in its entirety, it is considered that to permit the development as proposed would if permitted would consolidate

and intensify and existing unauthorised use/development, would set an undesirable precedent for similar development of this type in the future and would be contrary to the proper planning and sustainable development of the area.

4.1.3 Previous Histories Pre-dating current ownership

The overall planning history of the site dates back to the early 1970s when planning permission was granted under reference **126/71** to the IDA for the original *Cable and Wire Factory* on the site.

In 1974 Cable and Wire were granted planning permission under reference **74/669** for a security kiosk.

Under four subsequent planning applications, **P79/43, P94/578, P106/82 and P95/369**, Cable and Wire were granted planning permissions for various extensions to the premises.

Under planning permission **P07/1097**, permission was granted to Nexans Limited for 4No. silos. Nexans Limited closed the factory in 2008 and it remained vacant until the applicant purchased the property in 2018.

5.0 Policy Context

5.1. National Planning Framework – Ireland 2040

In the National Planning Framework Athlone is designated as a **Regional Centre**. It is located within the Eastern and Midland Region of Ireland's Regional Assembly.

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Due to strategic location and scale of population, employment and services, Athlone has an influence that extends to part of all three Regional Assembly areas. Given the importance of regional interdependencies, it will be necessary to prepare a co-ordinated strategy for Athlone at both regional and town level, to ensure that the town and environs has the capacity to grow sustainably and to secure investment, as the key regional centre in the Midlands.

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More effective strategic planning and coordination of the future development of nationally and regionally strategic locations at points that straddle boundaries between this and neighbouring regions as in the example of Athlone, which is a focal point for an area reaching into much of this and neighbouring regions in economic and employment, transport, education and public service delivery and retailing terms.

National Policy Objective 6 Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

National Policy Objective 11 In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

5.2 **Regional Spatial & Economic Strategy for the Eastern and Midland Region 2019-2021.**

Linked Gateway Towns Athlone, Tullamore and Mullingar.

Regional Policy 4.10 Support the development of joint economic, transport and retail plans by Westmeath and Roscommon County Councils in collaboration with and where appropriate relevant local authorities and relevant agencies to facilitate the growth of Athlone.

Regional Policy Objective 6.10 EMRA will support the preparation of a Retail Strategy/ Strategies for the Region in accordance with the Retail Planning Guidelines for Planning Authorities 2012 or any subsequent update, and the retail hierarchy for the Region, expressed in the RSES, until such time as the hierarchy is updated.

Regional Policy 6.11 Future provisions of significant retail development within the regional shall be consistent with the Retail Planning Guidelines for Planning Authorities 2012, or any subsequent update, and the retail hierarchy for the Region, expressed in the RSES until such time as the hierarchy is updated.

5.2. Development Plan

5.2.1 Westmeath County Retail Strategy (Adopted April 2017)

Table 7.1: County Retail Hierarchy

Position in the Hierarchy	Description	Settlement/Centre
Tier 1	Linked Gateway Town**	Athlone, Mullingar.
Tier 2	Key Service Town	Castlepollard.
Tier 3	Service Town	Moate, Kinnegad, Kilbeggan
Tier 4	Local Service Town and Neighbourhood Centres*	Rochfortbridge, Killucan/Rathwire, Clonmellon, Tyrrellspass.
Tier 5	Rural Centres and Local Shops	Including: Delvin, Coole, Multyfarnham, Ballymore, Ballynacarrigy, Raharney, Milltownpass, Collinstown, Glasson, Ballinalack, Rathowen, Finnea, Ballinagore, Ballykeeran, Castletown-Geoghegan.

Source: Westmeath County Development Plan 2014 and MacCabe Durney Barnes

Policy SRP2: Core Retail Areas

It is the policy of the Council to define the Core Retail Areas of Mullingar and Athlone to provide guidance on the Sequential Approach

Athlone: Costume Place, Church Street, Dublin Gate Street, the Athlone Town Centre and John Broderick Street.

Policy RP9: Regional Centre – Athlone

It is the policy of the Council to promote and encourage major enhancement and expansion of retail floorspace and regional centre functions in the core of Athlone to reflect its role as a major centre and to further develop its competitiveness and importance as a ‘Regional Centre’ as designated within the National Planning Framework

7.3.1.4 Strategic

The priority is continuing to grow and enhance convenience and mainstream comparison shopping in Athlone’s core area. The Athlone Town Centre shopping centre has reinforced the strategic retail function of Athlone. This has been secured and sustained throughout the period of economic recession the country has faced. This performance and potential requires to be built on recognising that, due to the

fine grain morphology of the Core Retail Area of the town, then this would be difficult to achieve in the Core Retail Area of Athlone. However, through a suite of development opportunity sites, this can be redressed and underpin further growing of Athlone's retail role, potential and profile within edge-of-centre sites in the Eastern Bank area. These sites are identified in Map 3 of Appendix I and are:

- Adjacent to Southern Station Road
- At Loughanaskin
- Former shopping centre off St Mary's Square
- Between Sean Costello Street and John Broderick Street
- The Dunnes site and car park
- On Lloyds Lane and The Strand
- Golden Island

5..2.2 Athlone Town Development Plan 2014-2020

The subject site is located within the ***Curragh Lissywollen LAP*** are just south of the N55. The site is zoned for **MIXED USE**. (Relevant Zoning Map Appended)

Section 4.13 of the Athlone Town Development Plan outlines Retail Development Strategy

4.13.2 Policy Context Retail Planning - Guidelines for Planning Authorities 2012 (DECLG)

The Guidelines have five key policy objectives:

- Ensuring that retail development is plan-led.
- Promoting a sequential approach to development.
- Securing competitiveness in the retail sector by actively enabling good quality development proposals in suitable locations.
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with Smarter Travel.
- Delivering quality urban design outcomes.

4.13.4 Sequential Approach

Development proposals not according with the fundamental objective to support the vitality and viability of town centre sites, must demonstrate compliance with the sequential approach before they can be approved. The order of priority for the sequential approach is to locate retail development in the town centre, and only to allow retail development in edge-of-centre or out-of-centre locations where all other options have been exhausted. Applications for such development must demonstrate suitability, availability and viability, in order to meet the requirements of the sequential approach. Retail impact assessment and transport impact assessments may be required for significant retail development, which due to their scale and/or location may impact on the vitality and viability of town centres.

4.16 NEIGHBOURHOOD CENTRES

Neighbourhood Centres provide a greater distribution of retail availability which can be more readily accessed by foot or cycle. In this regard, appropriately scaled neighbourhood retailing facilities promote Smarter Travel objectives. The essence of Neighbourhood Centres is that they serve quite localised catchment areas in a way which is convenient to the population served. The distribution of such facilities cannot be too widespread however, as this would negate the benefits of a local focus of provision and development could be unviable. Thus, there needs to be a reasonable quantum of scale to provide a good local range and provide a viable focus of shopping and service outlets. In Athlone, neighbourhood centres are provided for in Cornamaddy, Lissywollen South and Cornamagh.

4.19 General Retailing Policies & Objectives

It is policy of the Council:

P-RET1 To protect and strengthen the retail primacy of Athlone within the region.

P-RET5 To support the vitality and viability of existing designated retail centres and facilitate a competitive and healthy environment for the retailing industry into the future by ensuring that future growth in retail floor space is in keeping with the Retail hierarchy, as prescribed in the Retail Strategy.

P-RET6 To adhere to the provisions of the Sequential Approach in the consideration of retail applications located outside of core retail area, as identified in Map 4.1.

P-RET11 To restrict the subdivision of retail warehouse premises into smaller units, as they may undermine existing retail provision in the retail core and thereby adversely impact upon the vitality and viability of the town centre.

It is an objective of the Councils:

O-RET3 To promote higher order and comparison goods retail activity in the town centre and resist the loss of retail units, to non-retail use, at pedestrian level, particularly in the primary shopping streets in Athlone which are defined as follows: Connaught Street, O'Connell Street, High Street, Main Street, Castle Street, Pearse Street, Church Street, Mardyke Street, and Irishtown Upper.

5.2.3 **Variation No. 4- Athlone Joint Retail Strategy 2019-2026**

4.2.6 Discount Comparison Outlets

Over relatively recent years, there has been the introduction of the new format of discount comparison brands/outlets such as Dealz and Eurogiant, which provide a range of comparison and convenience goods (often recognised brands) at prices significantly below those that generally prevail in supermarkets or outlets such as Boots (chemist). Their attraction and potential can be seen to reflect the increasing role and profile of Aldi and Lidl in convenience shopping patterns – the consumer market has changed and getting value for money at the lowest cost is no longer an issue in shopping baskets. Such outlets are increasingly found in town centres and shopping centres and it would be anticipated they will continue to increase their presence in generally larger centres around the country. This has been the case in the Study Area with both Dealz and Eurogiant present in the central core area of Athlone. There is also a Eurogiant in Roscommon Town and both Dealz and Eurogiant in Mullingar Town Centre. In respect of the Study Area, as both are already present, it would be unlikely for either to seek further representation.

5.3. **Natural Heritage Designations**

The Natura 2000 sites are located to the north, west and south of Athlone urban area.

Within 15km of the site:

Lough Ree SAC Site No. 000440

Crosswood Bog Site No. 000678

5.4. EIA Screening

- 5.4.1. Having regard to the nature of the proposed development comprising of retention of change of use of structure to a retail outlet, in an established urban area, there is no real likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

HRA Planning has taken this appeal on behalf of Corajio Trading as Mr. Price. The five grounds of refusal are cited.

6.1.1 Introduction

- In 2018, the applicant invested €2.5million in Athlone town turning the site (former Nexans site which had remained vacant since 2008) into a nationwide distribution centre with a target of creating 200No. jobs over three years.
- The proposed development is providing a localised retail offering and comprising 1834sq.m. of gross retail floorspace (1436sq.m. net) is ancillary to the operation of the warehouse and distribution centre on the site. The local retail offering provides for the sale of convenience retail goods with a blended range of comparison goods, including bulky goods.
- The proposed development by reason of its scale and nature, including its interdependence with the warehouse and distribution centre does not compromise the regeneration and rejuvenation of the defined retail core and designated retail opportunity sites of Athlone; it is not contrary to the proper planning and sustainable development of the area. By reason of its limited convenience element serving a localised catchment area, it would not constitute ad hoc or piecemeal development, and would not adversely impact on the vitality and viability of the core/ centre area of Athlone. It is intended to provide a retail offer not currently provided in Athlone, offering top brand

name items at a discount of 40%-70% which is supported by adequate retail capacity expenditure within a localised catchment area.

- The development offers limited consumer choice. Therefore, customers will have to use other retail facilities such as traditional supermarkets and established shopping centres. The discount blended store generally complements existing mainstream stores. A standardised retail format is applied to all the applicant's stores throughout the country. Car borne transport is necessary for certain items such as jumbo washing detergents, electrical items and household equipment. Therefore, carparking is required to support the effective operation of the stores.
- There are some elements of the retailing that cannot be adapted to town centre sites, the facility requires a large retail ground floor space, bulk storage for branded goods and carparking.
- The importance of having a store decide the applicant's national distribution centre cannot be overstated. This is the key to the applicant's online store. The retail unit functions as a picking station for the online store. Proximity to the DPD depot (6mins) provides a significant locational advantage. There is significant interdependence between the regional distribution centre and the operational retail unity.
- The planning report incorrectly cites the history of the site. The site remained vacant since 2008, until the applicant purchased the site in 2017 and opened a national distribution centre in 2018. At the time the applicant did operate a retail unit in the town centre at Golden Island. The site was the subject of a significant flooding in 2016, and there could be no deliveries to the site for 8weeks, and significant stock was destroyed with water damage. The applicant then sought an alternative site from the town centre subject to flooding. With no suitable alternative and having regard to the expansion of online sales due to Covid, the applicant relocated to the present site in 2020. The premises at Golden Island is now occupied and does not lie vacant.

6.1.2 Contrary to National and Regional Planning Policy

- The planning authority submits the development is contrary to National Policy Objective 6 and National Policy Objective 11 of the National Planning

Framework and Regional Policy Objective 6.11 of the Eastern and Midland Regional Spatial and Economic, would be contrary to Ministerial Guidelines on Retailing for Planning Authorities (2012).

- In consideration of the two National Policy Objectives, it is submitted that the development seeks to cumulatively generate circa 200 No. jobs in conjunction with the national distribution centre within the defined town of Athlone on zoned lands for mixed use purposes and in support of NPO11. The development seeks to rejuvenate an extensive, vacant site, proximate to residential residences and adjoining other mix uses sites in accordance with the principles set out in NP06. The development is not contrary to the NPOs.
- In terms of Regional Planning Objective 6.11, it is submitted Athlone is identified as a 'Regional Growth Centre' and a Tier 1 town in the retail hierarchy for Westmeath. The proposed development is following the settlement hierarchy of the state as well as the core strategy set out in the Westmeath County Development Plan 2021-2027 as the development is proposed on identified mixed use zoned land. The Guidelines have five key policy objectives:
 - Ensuring that retail development is plan-led
 - Promoting town centre vitality through the sequential approach
 - Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward at suitable locations
 - Delivering quality urban design outcomes.
- The proposed development is plan-led and is seeking to develop a viable use in an existing vacant building. The land is suitably zoned, which accommodates a retail function alongside an ancillary use already on the site. A detailed sequential approach to the development has been undertaken and is detailed in section 5.0 of the retail Impact statement. It demonstrates there are no alternative sites closer to the town centre which can accommodate the type and extent of the development.
- The next national policy objective seeks to ensure the planning system continues to play its part in an effective range of choice for the consumer,

promoting a competitive marketplace. The proposal enhances the range of services in the settlement and enhances appropriate competition. The proposal is located in a mixed use and employment and residential zoned area. The shop is anchored to the warehouse and distribution centre. It serves a local need.

- The units had been vacant since 2008 prior to Mr. Price commencing operations. The opportunity to revitalise the area is realised through the project.
- The development as proposed is not an unacceptable use on a strategic out – of -town centre location. It is not contrary to NPO 6 or NPO 11 of the NPF, or the Regional Planning Guidelines.

6.1.3 Impact on Vitality and Viability

- There is only 37.9 % of the total net floorspace dedicated to convenience goods (545.6sq.m.) with the remaining floor space dedicated to comparison non-bulky (703.6sq.m.) and comparison bulky goods (172.3sqm.) The development does not comprise of adhoc, piecemeal development but rather the development is strategically positioned adjoining the applicant’s national distribution centre, on land zoned for mixed purposes.
- The Planning report describes the development as having in excess of 1,000sq.m. of gross convenience floorspace and categorises the development as a significant retail development which must be assessed under the 8 Criteria of Retail Impact set out in the Athlone Joint Retail Strategy. The Planning Report contradicts the submitted Retail Impact Statement, and yet it does not justify its position and does not seek to explain or rationalise its position on the following points the planning authority has made:
 - The development does not follow a retail hierarchy;
 - It does not increase employment opportunities;
 - It does not have the ability to attract new customers; to Athlone;
 - It does not correspond to consumer demand for retail offer;
 - Causes impact to town centre;

- Increases vacancy in the retail core;
- Does not ensure a high standard of access by public transport.

The Planning Report also indicates a number of sites identified in the Sequential Report would be suitable for the development but does not substantiate the reasoning in its argument.

- The Retail Impact Assessment evaluates alternative sites, with regards to suitability, availability and viability. There were 21No. sites assessed, and it is reiterated the site is most suitable locations within Athlone town to cater for the development.
 - It utilises a building that was vacant for 10years.
 - The land is zoned for mixed use purposes which supports a retailing use.
 - The subject site is the only site capable of accommodating the development proposal.
 - The proximity to other commercial/ employment generating and residential areas.
 - The specific nature of the blended retail offering which provides branded goods at discount prices and can result in bulk buying with reduction in car trips.
- The proposed development is not contrary to the provisions of the Westmeath County Retail Strategy, The Athlone Town Development Plan (Policies P-DU2, P-RET1 and P-RET5) the Athlone Joint Retail Area Policy SRP2 and Policies RP1 and RP2, and the development is in keeping with the proper planning and development of the area.

6.1.4 Sustainable Travel and Traffic Safety

Contrary to the opinion set out in the Planning Authority's Report, the Engineering report on the file dated 21st of April 2022, there was further information sought in relation to the provision of adequate bicycle facilities within the confines of the site. The Traffic Report submitted with the planning application and prepared by TPS Moran and Associates confirms existing retail unit attracts very limited daily or hourly inbound or outbound trips. The Engineering Report on file states the proposal lacks

connectivity from the public realm to the building itself. The pedestrians will not have to enter the site via the vehicular entrance but will enter via the proposed pedestrian walkway. Provision can be made for a cycleway off Woodville Road. There is a pedestrian crossing provided along the R916 in front of the national school to the north of the site.

6.1.5 Unauthorized Development

The planning authority references unauthorised development on the site and alleges the proposed development if permitted would consolidate and intensify such authorised use/ development contrary to proper planning and development of the area.

The reason for refusal does not specify the nature of the unauthorised development/ use and neither does the planning report. The principle of legal certainty is a general principle under the Rule of Law that requires that legal rules and norms must be sufficiently clear and transparent so that the subject rules are provided with a means to regulate their conduct and to protect against arbitrary exercise of public power.

There have been no other notices or enforcement in respect of the other buildings on the applicants landholding. The applicant did receive a Warning Letter under Section 152 of the Act relating to the subject site and the change of use of the former Cable and Wire factory to retail use without planning permission. The current application is to regularise the alleged unauthorised development. The reason for refusal is ultra vires and should be removed, the planning authority has not specified the alleged unauthorised use.

6.1.5 Signage

The planning authority cites the unduly prominent and obtrusive nature of the signage on the site as a reason for refusal which would injure the amenities of the area. And give rise to a necessary distraction to road users. This reason for refusal is stated despite the authorised use of the company's standardised advertising material on 60No. retail outlets throughout the country. The signage is the same on all Mr. Price outlets.

From the N55 fronting the site, the road has a speed limit of 80kmph meaning the sign must be visible from a distance of 85m. The sign is positioned 57m from the

northern roadside boundary edge. From the Woodville Road to the east of the site, The road has a speed limit of 30 kmph meaning the sign must be visible for 47m. The subject retail unit is located 43.4metres from the northern site boundary. The signs as positioned and located do not result in a significant distraction to road users.

6.1.6 Conclusion

- The development is a plan-led approach on lands zoned for mix use in Athlone Town Development Plan 2014-2020.
- The floor area dedicated to sales to the public only comprises of 15% of total floor area of the applicant's operation on the site, demonstrating that retailing is ancillary to the main purpose and function of the site as a national distribution centre.
- The retail unit functions as a picking station for all online sales for the company.
- The Retail Impact Statement prepared in support of the application demonstrates that the proposed development is small in scale and nature and will not have a direct adverse impact given its function and location. The town of Athlone would be well served by the change in retailing format that the development represents, and it will complement as opposed to compete with existing proportions. It is not the purpose of the planning system to inhibit competition.

6.2. Planning Authority Response

There would appear to be no response from the planning authority to the appeal.

7.0 Assessment

7.1. Having examined the appeal file and visited the subject site, the appeal will be assessed under the following headings:

- Planning Policy
- Retail Policy

- Planning History
- Road/ Traffic
- Appropriate Assessment

The planning application came on foot of a Warning Letter issued to the applicant on the 10th of October 2021 and a previous refusal of planning permission under planning reference 20/7196.

7.2 Planning Policy

7.2.1 The proposed development seeks to retain the change of use of an existing commercial and permitted factory floor space to a retail shop, ancillary staff offices and canteen facilities. The subject development is located within an existing single storey building with a gross floor area of 1,834sq.m. dedicated to the shop unit. The retail unit comprises of ‘scrambled merchandising’ selling both convenience and comparison goods. Typical Mr. Price shops sells arts and crafts, cards, cleaning products, textiles, electrical, food, health, house, party, pet, seasonal, stationary and toys at discount prices.

7.2.2 The site is governed by a zoning objective ‘**Mixed Use**’ in the Athlone Town Development Plan 2014-2020. Accordingly, the ‘Mixed Use’ zoning reflects the mixture of uses which have co-existed in the town/ village centres and which offer the variety required to make them attractive and important places for community interaction. The zoning provides for a range of uses to sustain and enhance the vitality and viability of town centres, making provision where appropriate for primary and secondary uses, e.g. commercial/ retail/ service development as the primary use with residential as a secondary use. According to section 13.2.2 Mixed Use of the development plan:

It is a policy of this Development Plan, to sustain and enhance the vitality and viability of town centres and where appropriate to consolidate urban areas. This will be achieved by encouraging a mix of compatible uses within town centres and maximising the use of land to ensure the efficient use of infrastructure and services, through mobilising brownfield and underutilised land for development where appropriate. Any such development will have regard to the Councils adopted Retail Strategy and policies in relation to the built heritage and building height and density.

- 7.2.3 According to the appeal file, the site was vacant from 2008 to 2018 since the former owner vacated the site and the applicant purchased it in 2018. According to the appeal file, the applicant has invested €2.5million into the site. The site now operates as a national distribution centre for Mr. Price with an ancillary onsite retail unit (it states this shop is to support its online shop. I note at the time of this report online purchases at Mr. Price were not activated).
- 7.2.3 The development is utilising a vacant brownfield site in the built-up area of Athlone. Having regard to the Zoning Matrix Table in Chapter 13 of the development plan, ALL Retailing ,i.e. Local, Neighbourhood and Major are Permitted in Principle under the Mixed Use Zoning objective. Other zoning objectives in the development plan do not provide such scope for retailing uses, and in most cases they are only Open for Consideration under zoning objectives associated with other brownfield sites in the urban and suburban area of Athlone.
- 7.2.4 The site is bounded by a host of landuses including residential, commercial, offices and community uses. Woodville Road (R916) forms the eastern boundary of the site on the opposite side of the R916 are housing estates, Woodville and The Orchard. To the immediate north of site is Cornamaddy National School. To the west of the site is Medtronic Athlone and the Department of Education and Skills. To the immediate south is a greenfield site, and further southwest of the site is Athlone Asylum Seeker accommodation. In my opinion, the Mixed-Use zoning is appropriate at this location.
- 7.2.5 The subject building where the development is located formed part of the former Irish Cable and Wire factory (subsequently Nexans Ireland). The original site was 13.3acres, and the application relates solely to the detached building (3,999sq.m.) at the northern end of the former of the site with a stated area of 1.75ha. As stated, the building footprint of the retail outlet is 1,834sq.m. which is a small percentage of the applicant's overall floor area of 11,979sq.m. of commercial floorspace. The larger warehouse (9,814sq.m.) located at the southern end of the site, operates as the warehouse/ distribution centre, supplying 60No. shops nationwide. It also includes a dedicated card assembly and packing facility where celebration cards are packed and reprinted.
- 7.2.6 It is reasonable to conclude the retail element on site, compliments the existing use on the entire site as a distribution and logistics centre for Mr. Price. In terms of

accessibility, delivering and storage is ideally located to avoid unnecessary trips and the retail use is ancillary to the storage use on site. There were no third-party objections to the proposed development. On balance, I consider the development is in keeping with the principles of the current development plan for the area.

7.3 Retail Policy

7.3.1 This issue is the crux of the appeal, it forms the basis for two of the five reasons for refusal in the planning authority's decision.

- 1. To permit the development as proposed would compromise both the regeneration and rejuvenation of the defined retail core and designated Retail Opportunity sites of Athlone and would provide an unacceptable use of the type and scale proposed on a strategic site which is zoned and serviced at this out-of-town centre location. The development as proposed would therefore, if permitted, be contrary to National Policy Objective 6 and National Policy 11 of the National Planning Framework and Regional Policy Objective 6.11 of the Eastern and Midland Regional Spatial and Economic Strategy, would be contrary to Ministerial Guidelines 'Guidelines for Planning Authorities Retail Planning' and would therefore be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development by virtue of the proposed use with significant convenience retailing at this out-of-town centre location would if permitted constitute adhoc, piecemeal development of a scale and type which will have material and unacceptable adverse impact on the vitality and viability of the core/ centre of Athlone. In this regard and having regard to the documentation submitted, including the Retail Impact Statement and in applying the sequential test, to permitted development as proposed would negatively impact on the strategic development of Athlone and the delivery of a plan-led hierarchy which is contrary to the provisions of the Westmeath County Retail Strategy (most notably 1,3,4 and policies RO and RP10. Athlone Town Development Plan (most notably policies p-DU2, P-RET1 and P-RET5) and the Athlone Town Development Plan (most notably Core Retail Area Policy SRp2 and policies*

RP1 and RP2. The development if permitted would therefore be contrary to the proper planning and sustainable development of the area.

Arising from these reasons for refusal the following issues need to be assessed:

- Will the development compromise the regeneration and rejuvenation of the defined retail core area of Athlone town?
- Will the development provide an unacceptable use of a type and scale on a strategic site on an out-of-town centre location
- Is the development is contrary to National Policy Objective 6 and National Policy 11 of the National Planning Framework and Regional Policy Objective 6.11 of the Eastern and Midland Regional Spatial Strategy.
- Is the development is contrary to the Retail Planning Guidelines.
- Does the development constitute an ad-hoc piecemeal development of a scale and type which will have a material and unacceptable adverse impact on the vitality and viability of the core/ centre of Athlone.
- Is the development is contrary to Westmeath County Retail Strategy (notably 1, 3, 4 and policies RO and RP10.)
- Is the development is contrary to the Athlone Town Development Plan (most notably Core Retail Area Policy SRP2 and Policies RP1 and RP2.

7.3.2 *Will the development compromise the regeneration and rejuvenation of the defined retail core?*

Athlone Town Centre is 2.5km from the application site. In the central core is indicated in the development plan to be certain named streets, the Athlone Town Centre shopping centre and the Retail Core Area is designated. The vacancy rate is high in certain parts of the town centre particularly along Church Street.

The subject development has a large retail floorplate across a single ground floor area of no less than 700sq.m. There is a significant storage space requirement for the storage of branded goods in an independent unit, and there is carparking

required to facilitate the movement of heavier goods. The Athlone Mr Price site is unique to other sites, by the fact, the wider site area accommodates a significant national distribution and logistics centre (1,814sq.m.) supplying 60 No. shops throughout the county and a seasonal warehouse (2,165sq.m.) The floor area of the retail area the subject of this appeal is only 15% of the total commercial floorspace on the entire site area under the applicants ownership.

A vacancy survey within the retail core area was undertaken by the applicant. Figure 3.0 of the Retail Impact Statement indicates 21 No. sites were assessed to determine their suitability for the development. The retail core area has a lack of large, modern floorplates and this is restricting the provision of new uses within the town centre.

The development comprises of 545.6sq.m of net convenience floorspace and 875sq.m. of net comparison floor space (172sq.m. is bulky goods).

According to the Retail Impact Statement (RIS) there are 71,984 persons living within a 20minute of the catchment of the subject site, however it is unlikely customers would travel 20minutes to visit the site. It is accepted that local customers visit the site on a regular basis and walk time to the site is considered more appropriate. The 10minute walk time to the site has a catchment of 2,025persons.

In order to have a competitive retail environment, future growth and developments must be suitable and to scale within Athlone. Athlone is a 'Regional Centre' and the retail offering should be strengthened appropriate to the regional importance of Athlone. The sequential test examined 21 No. sites within the town, a number of which are on the periphery of the town centre. I note from each site assessed, they were either too small in size to cater for the retailing needs of a Mr. Price outlet, lacked carparking, were subject to flooding, or not available. The test found the site's position alongside the distribution centre to be more favourable and sustainable.

The planning authority stated the development has an excess of 1000sq.m. of gross convenience floorspace and categorises the development as a significant retail development which must be assessed under the 8 No. Criteria of Assessment of Retail Impact set out within the Athlone Joint Retail Strategy.

I do consider the location of the retail development within the site of the applicant's warehousing, logistics and distribution centre at a serviceable location to be a material issue and a positive material issue. It makes planning and sustainable sense to facilitate the retail unit on the site, because it facilitates a synergistic operation at the site which is zoned in the local development plan for mixed uses. I do not see the logic in the planning authority's requirement to have it located in a separate part of Athlone town to the distribution centre on lands that may not be so favourably zoned to support retailing or accommodate the spatial and parking needs of a Mr. Price store.

The applicant has demonstrated in the Retail Impact Statement the development cannot be accommodated in the town centre. There is an adequate population catchment within a 10minute drive of the site to ensure the development will not directly impact on the turnover of existing retail units in the town centre. The development is more likely to introduce competition into the area as opposed to vacancy, and the retail offer should complement as opposed to detract from the retailing in the core of the town.

7.3.3 *Will the development provide an unacceptable use of a type and scale on a strategic site on an out-of-town centre location?*

Section 4.4 of the Retail Planning Guidelines outlines guidance for the sequential approach to the location of retail development. It outlines an order of priority for such development, with city and town centre locations (and district centre if appropriate) given priority in the first instance. Out-of-centre sites may only be considered in exceptional circumstances, where it is satisfactorily demonstrated that there are no suitable, available and viable sites or potential sites either within the centre of a city, town or designated district centre or at an edge-of-centre site. Figure 3.0 of the Retail Impact Statement indicates the 21 No. sites that were assessed to accommodate the development. I am satisfied that the applicant has fully examined alternative sites, and given the applicant's existing use on the wider site area, the development should be considered positively in these exceptional circumstances.

The proposed development is located within a Mixed Use employment and residential zoned area. There are a variety of land uses abutting the site along its boundaries. Given the scale of the applicant's operation on the total site area, the

shop is relatively small in scale. The shop serves a local need with customers visiting the store on a weekly or monthly basis to stock up on specific produce and goods. I do not consider the development to unacceptable in scale on the site. There are no other retailing activities on the site to represent a significant scale of convenience or comparison shopping at this strategic location.

7.3.4 *Is the development is contrary to National Policy Objective 6 and National Policy 11 of the National Planning Framework and Regional Policy Objective 6.11 of the Eastern and Midland Regional Spatial Strategy.*

This issue forms the basis of the planning authority's second reason for refusal.

National Policy Objective 6 *Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.*

National Policy Objective 11 *In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.*

Having regard to the number of jobs associated with the site, the applicant will provide circa 200No. jobs in conjunction with the shop and the distribution centre on land zoned for mixed use purposes, I consider the development supports the two cited national objectives contained in the National Planning Framework. The site had been vacant for over ten years before the applicant purchased it in 2018, and the applicants business and retailing has rejuvenated the entire site close to residential neighbourhoods in accordance with National Planning Policy.

In terms of the stated Regional Policy Objective 6.11 *Future provisions of significant retail development within the region shall be consistent with the Retail Planning Guidelines for Planning Authorities 2012 or any subsequent update and the retail hierarchy for the Region, until such hierarchy is updated'.*

In the context of the Retail Planning Guidelines there are five key policy objectives:-

- Ensuring that retail development is plan-led;
- Promoting city/ town centre vitality through a sequential approach to development;
- Securing competitiveness in the retail sector by enabling good quality development proposals on suitable locations;
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking
- Delivering quality urban design outcomes.

The development is plan-led and is seeking a viable use within a vacant building. The development complies with Mix Use zoning objective and is ancillary to the existing use on the entire site area.

Section 4.4 of the Retail Planning Guidelines outlines guidance for the sequential approach to the location of retail development. It outlines an order of priority for such development, with city and town centre locations (and district centre if appropriate) given priority in the first instance. Out-of-centre sites may only be considered in exceptional circumstances, where it is satisfactorily demonstrated that there are no suitable, available and viable sites or potential sites either within the centre of a city, town or designated district centre or at an edge-of-centre site. The applicant has demonstrated this in the Retail Impact Statement submitted with the planning application. The proposal seeks to enhance the range of services in the area and enhance competition. The development is located within an existing suburban neighbourhood and can attract a local customer base. The vitality of the area has been enhanced by the reuse of the entire building and site by the applicant.

On balance the proposed development does meet with national, regional and local retailing planning policy. It has complied with the Retail Planning Guidelines.

7.3.5 *Is the development is contrary to Westmeath County Retail Strategy (notably 1, 3, 4 and policies RO and RP10.)*

I note the Westmeath County Retail Strategy 2019-2026 which states :

Objective 10: To encourage and facilitate the re-use and regeneration of derelict land and buildings for retail and other town centre uses, with due cognisance to the Sequential Approach.

The purchase and reopening of the vacant site in 2018 as a distribution centre and retailing unit needs to be emphasised. The proposal clearly meets with Objective 10 cited above.

I have examined the policy objectives contained in the Athlone Town Development Plan 2014-2020 as outlined under section 4.19, and I consider, having regard to the information submitted by the applicant, the proposal complies with all aspects of the development plan. The development has adhered to the provisions of the sequential approach, it is appropriate inscape within the existing neighbourhood, and ancillary to the primary use the applicant's site.

7.4 Planning History

7.5.1 The planning history of the site dates back to the early 1970s when planning permission was granted under planning reference 126/71 to the IDA for the original Cable and Wire Factory on the site. In 1974 Cable and Wire were granted planning permission under reference 74/669 for a security kiosk. Under four subsequent planning applications, P79/43, P94/578, P106/82 and P95/369, Cable and Wire were granted planning permissions for various extensions to the premises. Under planning permission P07/1097, permission was granted to Nexans Limited for 4No. silos. The factory use permitted in 1971 remained unchanged to the present day. Nexans Limited closed the factory in 2008 and it remained vacant until the applicant purchased the property in 2018.

7.5.2 The planning authority's fourth reason for refusal is as follows:

Having regard to the planning register records associated with the site and the nature of use undertaken on the subject site in its entirety, it is considered that to permit the development as proposed would if permitted would consolidate and intensify an existing unauthorised use/development, would set an undesirable precedent for similar development of this type in the future and would be contrary to the proper planning and sustainable development of the area.

The planning register records are indicated above. The reason for refusal states the development if permitted would consolidate and intensify an existing unauthorised use/ development. The Planning Report on file and the above reason for refusal do not indicate what the alleged unauthorised use/ development on the site. It would appear the planning authority is implying the warehouse/ distribution depot may be unauthorised and in permitting the retail element it would consolidate and intensify the alleged unauthorised use.

7.5.3 According to the legal opinion submitted by the applicant with the planning application, (Counsel: Mary Moran-Long BL, Dated 24th of January 2022) the planning history relating to the site indicates substantial compliance with the relevant planning references, and no subsequent enforcement issues arising. The original permission on the site was granted in 1971 for the Cable and Wire Factory. The functioning and the viability of a factory would include the delivery of raw materials, the storage of goods and materials on the site, the storage of the finished product and the collection and distribution of products from the site to sites throughout Ireland. The parking provision was to cater for staff, and traffic included heavy duty vehicles. There has been no alteration to the permitted use since the original permission in 1971.

7.5.4 In accordance with Section 2(1) of the Planning and Development Act 2000, the following definitions are relevant:

'unauthorised development' means in relation to land the carrying out of any unauthorised works (including the construction, erection or making of unauthorised or the making of any unauthorised use.

'unauthorised use' means in relation to land, use commenced on or after 1st of October 1964, being a use which is a material change in use of any structure or other land and being development other than- exempted development, or a development which is the subject of a permission granted under Part IV of the 1963 Act.

The distribution depot currently works under the permission for the factory granted in 1971. The original permission for the factory has not been altered by subsequent permissions. The current use is a continuation of uses included in the permission for the original factory. Therefore, it is difficult to understand why the planning authority

considered the subject development consolidated an unauthorised use, when it did not establish that one exists.

The planning authority refers to intensification of an alleged unauthorised use if retention was granted for the retail outlet. Having regard to the traffic report and the trip generation analysis there has been no material intensification of use on the subject site, in fact the level of traffic and parking has been considerably reduced from its occupation by Irish Cable and Wire.

I understand the planning application is for change of use of a former wholesales/warehouse building to a shop including ancillary offices and a canteen. However, the wording of the fourth reason for refusal is incorrect and fundamentally flawed because it implies there is an existing unauthorised use/ development associated with the applicant's landholding and the development will consolidate and intensify that alleged unauthorised use, which has not been clarified or determined by the planning authority. I note the content of the planning report on file which outlines the legal opinion submitted by the applicant on this issue. Although, it outlines the opinion, the assessment fails to outline how the planning authority came to the conclusion the development was an intensification and consolidation of an unauthorised use on the site, and the nature of the alleged unauthorised use. On balance I consider the fourth reason for refusal to be unreasonable and should be dismissed.

7.6 Road/ Traffic

7.6.1 The site is accessed from an existing access off Woodville Road (R916) by means of a gated priority T junction arrangement which incorporates a ghost island that enables the storage of traffic accessing the site from the south. Cycle lanes are located adjacent to the northbound and southbound carriageways. The access is also used by Heavy Duty vehicles accessing the adjoining Mr. Price Distribution Depot. The speed limit of Woodville Road is 50kph (31mph) with street lighting along pedestrian footpaths located at intervals along the Regional Road. Woodville Road serves a number of diverse uses.

There is a pedestrian walkway running from the shop entrance to the east, cutting across the grassed area to the link onto the public footpath. A condition can be attached to this affect.

7.6.2 The Traffic Report accompanying the planning application dated January 2022, assessed the traffic and transportation. The Report indicates the following:

- Mr Price has been operating on the site since September 2018. The Distribution Depot operates weekdays from Monday to Friday between 06.00-1500hours, with a second shift from 1300-2200hours. There are currently 35No. members of staff, and at any given time there is no more than 17No. vehicles parked in the carpark. The traffic generated by the site is negligible in terms of traffic impact onto the local road network.
- The Mr. Price Distribution Centre is serviced by 31No. deliveries per week and 23No. collections per week. The 5-5 No. trucks per day off the Woodville Road access, gives rise to no queues or delays along the road.
- If Mr. Price vacated the premises it could be returned to an industrial premises with 10133sq.m. floor area, which would give rise to a significant increase in daily and peak trips using the TRICS 2021 database. The Traffic Report found an industrial use on the site could generate over 170% increase in daily trips when compared to the Mr. Price operation. The traffic generated by Mr. Price is negligible compared to the former Irish Cable and Wire use and an future industrial use.

7.6.3 The planning authority has not stated how the proposal presents a risk to pedestrian, cyclist and traffic safety when the traffic generated by the proposal is considerably reduced compared to the previous use. I visited the site during a normal week day operational time, and there were very few customer cars parked in the extensive carpark. The traffic trip generated are local, and the site is accessible to a wider residential area within walking distance. The third reason for refusal can be dismissed.

7.7 Signage

The fifth reason for refusal relates to the signage, which states the illuminated window signage on the structure and the advertising boarding and advertising banner at the roadside entrance would be unduly prominent and obtrusive and would pose a traffic risk.

The subject signage is standardised on all Mr. Price outlets throughout the country. In terms of traffic safety, it is submitted the subject building is situated 57m from the northern site boundary and 43m from the eastern site boundary. The signs are easily legible from the adjoining road within the 30kmph speed limit, and do not pose a significant distraction for road users. The Area Engineer had no objections to the signage. The front and side elevation of the building has been refurbished since 2018. The retail use and signage gives the site sense of activity and life when viewed from Woodville Road. I know it is a subjective use but I consider the signage enhances the active use of the two main elevations of the building from the previous vacant and kempt use.

7.7 Appropriate Assessment

7.7.1. 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 in this section.

A screening report for Appropriate Assessment was not submitted with the application. Therefore, this screening assessment has been carried out de-novo.

7.7.2 Screening for Appropriate Assessment-

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).

The proposed development is examined in relation to any possible interaction with European sites, designated as Special Conservation Areas (SAC) and Special Protection Areas (SPA), to assess whether it may give rise to significant effects on any European Site.

7.7.3 Brief Description of Development

The proposed development is described at Section 2 of this Report. In summary, permission is sought for retention of a change of use of a building which was originally a wholesalers/ warehouse to a shop and canteen. The site was formerly the Wire and Cable Factory built in the early 1970s.

The development site is not located in or immediately adjacent to a European site. The Crosswood Bog SAC (Site Code 002337) is on the opposite side of the M6

motorway south, and the River Shannon Callows SAC (Site Code 000216) and Middle Shannon Callows SPA (Site Code 004096) are located approx 3.3km south-west.

There are no identified watercourses or drainage channels within or adjacent to the site. I am satisfied that there is no hydrological connection between the subject site and the European sites. Taking this into consideration, together with the separation distance between the sites and the nature and scale of the development and the previously developed nature of the site, I do not consider there is any potential for likely significant effects on qualifying interests within the SAC and SPA sites.

7.7.4 *Screening Determination*

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 Nos. 002337, 000216 and 004096, or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 **Recommendation**

8.1. I recommend the Board overturn the planning authority's decision to refuse the development and grant planning permission for the development.

9.0 **Reasons and Considerations**

Having regard to:

- Objective 6 and Objective 11 of the National Planning Framework -Ireland 2040
- The Westmeath County Development Plan 2021-2027
- The Westmeath County Retail Strategy 2019-2026
- Athlone Town Development Plan 2014-2020
- Athlone Joint Retail Strategy 2019-2026

- The planning history of the site
- The Mixed Use zoning objective governing the site
- The applicants' wider use of the site as a national distribution and logistics centre

and the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of zoning, layout, and design, and would not seriously injure the amenities of the area and is ancillary to the primary use on the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. 1

10. 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 11th of March 2022 except as 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 full extent of this permission relates only to the floor area indicated in yellow on the site layout drawing Number 2019-122-02.</p> <p>Reason: in the interest of clarity.</p>
3.	<p>Details of all signage 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 amenity of the area.</p>

4.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of amenity and public safety</p>
5.	<p>A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the operational phase of the development.</p> <p>Reason: In the interest of sustainable transport.</p>
6.	<p>The developer shall identify a suitable area within the development for the provision of bring banks. This bring bank area should be in accordance with the following:</p> <p>(a) There shall be a concrete plinth for twelve recycling receptacles.</p> <p>(b) There shall be a setdown parking area, fencing and any other suitable hard and soft landscaping required and associated signage.</p> <p>(c) The area shall be sited away from residential areas.</p> <p>(d) Consideration shall be given to turning requirements of HGVs used to service such banks and the potential noise generated by the banks from their usage.</p> <p>(e) Before any development takes place, a design drawing for the Bring Bank area shall be submitted to the planning authority for written approval.</p> <p>Reason: In the interest of sustainable waste management.</p>
7.	<p>The pedestrian walkway as indicated on site layout drawing No. 2019-122-02 shall be provided within three months of this decision.</p>

	<p>Reason: In the interests of connectivity with the residential developments and the proper planning and development of the area.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Caryn Coogan
 Planning Inspector

6th of July 2023