



An
Bord
Pleanála

Inspector's Report

ABP-315915-23

Development

Retention of existing farm retail warehouse use and Permission for change of use of part of existing storage to extended farm retail warehouse use, construction of new garden centre, construction of new storage mezzanine level, and associated site works.

Location

Drinagh Farm Centre, Dunbittern East, Cork Road, Bantry, Co. Cork P75 PC81

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

22/728

Applicant(s)

Drinagh Co-op Ltd.

Type of Application

Retention Permission and Permission.

Planning Authority Decision

Refuse

Type of Appeal

First Party v. Refusal

Appellant(s)

Drinagh Co-Op Ltd.

Observer(s)

None

Date of Site Inspection

29 September 2023

Inspector

Cáit Ryan

1.0 Site Location and Description

- 1.1. The subject site is located at the Drinagh Farm Centre premises, which is approximately 3km south west of Bantry town centre, and approximately 80km south west of Cork City. It is accessed from a short cul-de-sac off the N71, the main approach road to Bantry from the south.
- 1.2. This cul-de-sac also provides access to Topline Murphy O'Connor premises, which envelopes the Drinagh Farm Centre site to the west, south and partially to the south east. Site boundaries to this adjoining premises and along the south eastern boundary of the Farm Centre site comprise chainlink wire fencing. A separate, longer cul-de-sac provides access to Barrett Agri – Independent Farm and Fuel and to Bantry recycling centre, which is located at the end of that cul-de-sac, approx. 500m to the north east via this route.
- 1.3. The site has a stated 0.26ha area, and forms part of the larger Drinagh Farm Centre premises outlined in blue. There is a substantial warehouse type premises comprising 1673sqm on the overall Farm Centre site, the western section of which is located within the red line boundary. This section has a retail element, identified by 'shop' signage and is accessible by the public. Adjoining undeveloped lands to the north and east are elevated above the overall Farm Centre site.
- 1.4. A weighbridge is located at the eastern end of the warehouse, forward of same. A large garage of double height scale is located to the north east of the warehouse. On the northern side of the internal access route, there are a range of structures such as large water storage tank, sheds, fuel tanks and a small amount of garden furniture. A large amount of products were stored externally on date of inspection along the south western boundary, such as planting and potting mix, compost, garden soil, and a large quantity of pre-calvers and similar products. A wide range of products including fencing materials were stored externally to the rear of the building and along the south eastern (rear) boundary of the overall Farm Centre site.
- 1.5. Elsewhere in the vicinity, the entrance to Bantry Business Park is located on the opposite (western) side of the N71, approximately 90m north west of the cul-de-sac access to the subject site. A number of units have been built in this business park, a significant distance back from the roadside frontage, some of which are occupied.

2.0 Proposed Development

2.1. The proposed development comprises partial change of use of the existing Drinagh Co-Op premises, and extensions and alterations to same, comprising:

- Retention of existing farm retail warehouse use
- Permission for
 - Change of use of part of existing storage to proposed extended farm retail warehouse use at ground floor level
 - New storage mezzanine at first floor level over existing farm retail warehouse area and part of the proposed extended farm retail warehouse area, including 2 no. fire escape stairs and service lift
 - Alterations to north, south and western elevations, including new entrance surround and fenestration, alterations to entrance approach and new signage
 - Construction of new single storey garden centre
 - Removal of disused fuel tanks and bunded surround, additional car and bicycle parking, and site works, fencing and services

2.2. The proposed garden centre comprises 102.97sqm, and would be located to the side (south west) of the existing warehouse building, accessed from the interior of the proposed extended retail warehouse area. It would consist of a curve steel structure with a reinforced PVC covering. The proposed front (north) elevation would comprise 4m high mesh with 2.4m high fire escape gates. The south western elevation bounding the Topline Murphy O'Connor site would comprise a 4m high block wall. The existing large open storage yard would be subdivided at its south western end to form a new enclosed storage yard to rear of the garden centre and ground floor stores.

2.3. A Planning Statement was submitted with the application.

A Technical Note compiled by Kieran J. Barry & Associates Ltd. lodged with the application includes a Flood Risk Assessment.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for 1 no. reason:

As stated in the Cork County Development Plan 2022, it is the Council's stated policy under Objective BT-B-03 to allow for consideration of retail warehouse development at Bantry Business Park close by to the west of the N71 National road but at these subject lands to the east of the N71 National road and occupied by Drinagh Co-Op, such retail warehouse development is specifically not included in the relevant Objective BT-B-05 that is confined to 'Business development'. Furthermore, the Planning Authority is not satisfied that the existing retail floorspace developed at the warehouse unit is an 'incidental retailing use' to the primary storage function of the permitted development, which would therefore not be in accordance with the parent permission granted by An Bord Pleanála under PL04.090925 (Plan Ref 92/3755), with direct retail sales including to the general public. The proposed development to retain and further extend the farm retail warehousing on these lands would if permitted, contravene materially a stated development objective set out in the Cork County Development Plan 2022 for the zoning of this land for 'Business Development' and contravene materially a planning condition attached to the existing parent permission, to the detriment to the vitality and viability of Bantry Town. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Basis for planning authority's decision -

Area Planner's report (30 January 2023)

- Noted the content of technical reports and report from prescribed body. The report raised a number of concerns relating to planning history, lack of Retail Impact Assessment, and states that the subject Objective BT-B-05 lands do not allow for retail warehousing, and that Objective BT-B-03 lands on opposite

side of N71 allow for this use. Refusal of permission for 1 no. reason was recommended.

Senior Executive Planner's report (30 January 2023)

- Noted content of Development Plan including Objective BT B-05, Objective TCR 9-16, and with regard to Retail Hierarchy, considered that the proposal would undermine plan-led approach to identifying suitable lands for retail warehousing.
- Report concurs with Area Planner's recommendation to refuse permission. Recommended refusal reason is that on which the planning authority's decision is based.

Senior Planner's report (31 January 2023) concurs with Senior Executive Planner's recommendation to refuse permission.

3.2.2. Other Technical Reports

Planning Policy Unit (email dated 18 January 2023)

- States that business zoning does not allow retail warehousing unless specifically referenced in the objective, and this proposal would appear to materially contravene zoning objective. If minded to grant, material contravention process may be required.

Area Engineer's Report (20 December 2022)

Report includes -

- P.A. Ref. 92/2755 conditioned a grit trap and a three chambered hydrocarbon interceptor on the storm water outfall to the watercourse, and a register for the inspection and maintenance of the interceptor was to be maintained.
- Notes that Planning Statement and Technical Note refer to existing storm water drainage discharging to existing soakaways, in contrast to outfall to existing stream/watercourse referred to on drawing.

Recommends FI seeking -

- relocation of disabled parking spaces and parent and child spaces to where the 10 no. existing spaces are
- make surface water drainage outfall to watercourse available for inspection
- make septic tank available for inspection and submit site assessor's report on septic tank and percolation area and suitability of same for additional loading.

Engineering Report (26 January 2023)

- Report recommends permission, and also seeks Further Information (FI) to clarify that any signs will be within confines of site.
- States no objection, and that access to the existing facility is from an entrance onto a section of the N71 which was resurfaced, re-aligned and drainage upgraded by National Road Design Office around 2021/2022. States also that traffic should not have a negative impact on the operation of the national road.

Estates Primary Report (20 December 2022)

Report states no objection in principle from flood risk perspective.

- Notes that the site is situated in Flood Zone C, adjoins Flood Zones A and B and is not encroached by these flood zones. States that the extension can be considered 'minor development', will not impact on existing flood risk elsewhere, and much of the site is already hardstanding. The proposed use is 'less vulnerable' in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities.

Environment Report (9 January 2023)

Report states no objection, subject to 1 no. condition relating to waste management.

Water Services (email dated 30 January 2023)

Change Manager, Water Services states she understands that an existing water connection will be retained, and Irish Water has no objection to the proposal.

3.3. Prescribed Bodies

3.3.1. **Transport Infrastructure Ireland (TII)** in a letter 29 December 2022 considers that the proposal is at variance with official policy in relation to control of development on/affecting national roads, outlined in DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) as the proposal or the precedent it would set would adversely affect the operation and safety of the national road network for the following reasons:

- Contrary to Section 2.5 which states that policy of the planning authority will be to avoid creation of additional access points from new development or generation of increased traffic from existing accesses where speed limit on national road exceeds 60kph.
- Proposal is located on an unimproved section of national road where maximum speed limit applies, would endanger public safety by reason of traffic hazard due to extra traffic generated.
- The proposed sign(s) and precedent it would set could lead to a proliferation of same which would adversely affect the operational efficiency and safety of national road network.

3.4. Observations to Planning Authority

None.

4.0 Planning History

Subject Site:

Area Planner's report outlines that one planning application only has been made in respect of the subject site, as follows:

P.A. Ref. 92/3755 – ABP PL 04.090925: Permission granted in 1993 for general store for animal feeds, fertilizers, solid fuels and similar products and vehicle maintenance building, subject to 23 no. conditions. Condition 6 states:

*Condition 6: The structure shall be used for storage purposes only and no retail, manufacturing or other process other than incidental retailing use associated with the primary function of the development shall be carried on therein.

*Reason is not included.

Sites in the Vicinity:

P.A. Ref. 98/611: Permission granted in 1998 for a builders' providers premises including storage shed, sawmill building, timber store, storage yard, site works and treatment plant. Area Planner's report describes this as the Topline Murphy O'Connor building (approx. 2,625sqm). This site adjoins the Drinagh Farm Centre site to the west, south and partially to the south east.

Condition 21 states that use of the overall premises shall be restricted to those uses specified in the lodged documentation, and that any change of use shall be subject to the prior approval of the planning authority.

Bantry Business Park:

Bantry Business Park is accessed from the N71, approx. 90m north west of the cul-de-sac to the subject site.

P.A. Ref. 21/668: Permission was granted in 2022 for 2 no. light industrial/warehouse buildings containing 8 no. units and 1 no. retail warehouse building containing 4 no. units. This permission has not been implemented. It is a large site, located at the south western end of Bantry Business Park, approximately 400m from the subject site.

Condition 3 states that the uses of the buildings shall be restricted to a warehouse/light industrial and retail warehousing in accordance with that use specified on the FI site layout plan, and a change of use shall not take place without a further permission.

P.A Ref. 23/289: Permission granted in 2023 for development described as light industrial/warehouse building, which is a change of plan and layout from that permitted by P.A. Ref. 21/668 and includes ancillary retail sales to the public.

P.A. Ref. 21/101: Permission was granted in 2021 to Bantry Tyre Centre for a substantial new tyre warehouse and distribution facility (4,924sqm). This permission has not been implemented. This site is located at the front of Bantry Business Park, approximately 270m from the subject site.

Condition 2 states:

The use of the building shall be restricted to a warehouse building precluding the retail sales to the public and a change of this use shall not take place without a further permission from the Planning Authority, notwithstanding the Exempted Development provisions of the Planning and Development Regulations, 2001 (as amended).

Reason: To accord with the development to which permission has been sought, to prevent over-intensification at the site and retail sales outside of the Bantry town and in the absence of any additional parking provision.

P.A. Ref. 17/383: Permission was granted in 2017 for a warehouse-type building with offices at Bantry Business Park, Dunbittern East and Ardyhoolihane Townlands. This roughly wedge-shaped site is located opposite the cul-de-sac junction to the N71 junction to the subject site, and is accessed via Bantry Business Park. Condition 7 states that the building shall be used solely as a commercial (non-retail) warehouse and a change of use shall not take place without the benefit of a further grant of planning permission.

P.A. Ref. 23/56: Permission granted in 2023 for warehouse-type building with offices as previously granted by P.A. Ref. 17/383. Description of development states that it will include open storage area for plant and machinery. The site area differs from P.A. Ref. 17/383, whereby it includes the access route from the internal road within Bantry Business Park.

P.A. Ref. 22/136: Permission granted in July 2022 for amalgamation and change of use of 3 no. trade warehousing units of Unit 4, a trade warehousing building of 4 no. trade warehousing units permitted by P.A. Ref. 06/1460, to a postal delivery depot.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

Zoning:

The site outlined in red is zoned ZU 18-15: Business and General Employment. The north eastern part of the overall Drinagh Farm Centre premises at approx. 25 from the subject site, including part of the garage building, and adjoining lands to the north east, are zoned ZU 18-16: Industrial Areas. These lands and the separate Business and General Employment zoned lands on the opposite (western) side of the N71 are not contiguous to the development boundary near the built-up area of Bantry, and are separated from same by Greenbelt 1-1 zoned lands.

Vol. 1 – Main Policy Material

Chapter 18: Zoning and Land Use

Objective ZU 18-15: Business and General Employment Areas

Promote the development of New Business and General Employment Areas as the primary locations for the development of employment uses such as light industry, wholesale and non-retail trading uses, car showrooms and small/medium scale manufacturing/repairs/warehousing/distribution/logistics.

Other uses that could be included in certain specific circumstances could include retail warehousing and office development not suited to town centre or edge of centre locations. Retail warehousing could be accommodated where the specific zoning objective allows.

This Objective states that uses specifically excluded from the business category include general retail development.

Appropriate Uses in Business and General Employment Areas includes light industry wholesale and non-retail trading uses, and retail warehousing where not suited to town centre or edge of centre locations, and refers to Objective ZU 18-15.

Section 18.3.39 also states that the compatibility of a particular use or operation will be dependent on the nature of the use/operations and surrounding uses in the area in which the development will be located.

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The subject site is located on lands to which Specific Development Objective BT B-05 applies, 'Business Development'. This Objective relates to a larger 7.9ha landbank, and requires both Traffic Impact Assessment (TIA) and Road Safety Audit (RSA). Flood Risk is indicated to apply to these lands.

In the immediate vicinity of BT-B-05 lands, the following Specific Development Objectives are noted:

- Specific Development Objective BT-1-01 applies to adjoining lands to the north east comprising 13.6ha, and states 'Industry and/or warehousing and distribution subject to an acceptable layout'.
- At the Bantry Business Park on opposite side of the N71 –
 - Objective BT-B-03 comprises 7.1ha, and states 'Business Development. Retail warehousing and petrol filling station may be acceptable uses in this location'
 - Objective BT-B-04 comprises 12.7ha, and states 'Business Development'

Sections 2.7.47 - 2.7.50 set out that the wide catchment of Bantry requires adequate provision to be made for retail warehousing, and also that there are immediate difficulties in identifying suitable edge of centre sites in Bantry. Present congestion difficulties around the town centre imply that bringing further HGV traffic associated with retail warehousing through the town centre would not be the best strategy in the medium to long term. While lands at Seafield (BT B-02 zoning) are the closest in terms of proximity to the town centre, there are accessibility issues which are likely to remain until a relief road for the town is realised. In the interim lands at Dunbittern (Bantry Business Park, BT B-03 zoning) present an option for retail warehousing. The BT B-03 site is less constrained in terms of access, although the BT B-02 lands may be the most appropriate site for such uses in the medium to longer term.

Vol. 1 – Main Policy Material

Chapter 18: Zoning and Land Use (Non-conforming uses)

Section 18.2.3 Throughout the County there are uses which do not conform to the zoning objective of the area. These are uses which were in existence on 1st October 1964, or which have valid planning permissions, or which are unauthorized but have exceeded the time limit for enforcement proceedings. Reasonable intensification of extensions to and improvement of premises accommodating these uses will generally be permitted subject to normal planning criteria.

Objective ZU 18-6: Non Conforming Uses: Have regard to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals for lands in the vicinity of zoning boundaries.

Chapter 9 – Town Centres and Retail

It is stated (at Section 9.5.7) that the Retail Planning Guidelines 2012 have been taken into account in the preparation of the Development Plan. Section 9.6 sets out the Retail Hierarchy for the County.

Objective TCR 9-3: Retail Hierarchy (Table 9-1) includes Bantry as a ‘Larger Town’. The General Retail Function and Policy outlines that Ring and Larger County Towns generally perform important sub-county retailing functions and include some of the major retailing chains. These generally have a population in excess of 5,000 or are designated as Ring Towns in consecutive plans. Cautious approach to out-of-centre retail warehousing.

Objective TCR 9-8 (in Table 9-1) is to support the vitality and viability of the Ring and Larger towns and to ensure that such centres provide an appropriate range of retail and non-retail functions to serve the needs of the community and respective catchment areas.

Separately, the population of Bantry is stated as 2,722 (Census 2016), with a population target of 3,622 over the plan period (as outlined in Vol. 1 - Core Strategy and Vol. 5 – West Cork)

Objective TCR 9-16: Retail Warehousing

a) The preferred location for new retail warehousing/bulky goods floorspace is in or adjacent to town centres. Proposals in other locations will normally be discouraged. Individual settlement plans may identify suitable locations for retail warehousing where an identified need is demonstrated.

b) The range and type of goods sold from such developments should be restricted to bulky goods as defined in Annex 1 of the Retail Planning Guidelines. Ancillary products should not exceed 20% of the total net retail floorspace.

Chapter 12: Transport and Mobility

Objective TM 12-8: Traffic/Mobility Management and Road Safety includes

a) Where traffic movements associated with a development proposal have the potential to have a material impact on the safety and free flow of traffic on National, Regional or other Local Routes, the submission of a Traffic and Transport Assessment (TTA) and Road Safety Audit will be required as part of the proposal. Where a Local Transport Plan exists, it will inform any TTA.

Development Plan Mapping

The site is located within a High Value Landscape.

The stretch of the N71 from which the site is accessed is part of Scenic Route S108, Road from Bantry via Durrus and Ahakista to Kilcrohane.

Flood Zone A applies to a very limited area at the extreme southern/south western corner of the site.

5.2. Retail Planning Guidelines 2012

5.2.1. The Guidelines state (at Section 2.5.1) that future retail development should be planned following the settlement hierarchy, including the identification of retail requirements and appropriate planning policies and objectives.

5.2.2. The Guidelines define a Retail Warehouse as a large single-level store specialising in the sale of bulky household goods such as carpets, furniture and electrical goods, and bulky DIY items, catering mainly for car-borne customers. A non-exhaustive list of examples of bulky goods set out in the Guidelines include -

- goods generally sold from retail warehouses where DIY goods or goods such as flatpack furniture are of such size that they would normally be taken away by car and not be portable by customers travelling by foot, cycle or bus, or that large floorspace would be required to display them
- tools and equipment for the house and garden

5.2.3. Section 4.11.2 states that in order to minimise potential adverse impacts on central areas it is important that the range of goods sold in both existing and any future retail parks is tightly controlled and limited to truly bulky household goods or goods which are not portable by customers travelling by foot, cycle, or bus. While there are ancillary items associated with bulky goods, it recommends that the retail floorspace devoted to such ancillary products should not exceed 20% of the total net retail floorspace of the retail unit and such space to be clearly delineated on the planning application drawings to facilitate future monitoring and enforcement.

5.3. **Natural Heritage Designations**

The site is not within or adjoining any Natura 2000 sites.

- Glengarriff Harbour and Woodland SAC (Site Code 00090) is approx. 8.3km to the north west.
- Dunbeacon Shingle SAC (Site Code 002280) is approx. 9km to the south west.

5.4. **EIA Screening**

See Form 2. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicant requests the Board to assess the development *de novo*, based on the lodged application and grounds of appeal outlined under five subsections. The main issues raised in the grounds of appeal are summarised as follows:

Justification for the proposed development

- Drinagh Co-Op has over 2,000 community shareholders. The Farm Centre was developed almost 30 years ago by previous occupier.
- Applicant purchased the Farm Centre and Wolfe Tone Square (town centre) premises in 2012. The town centre premises is incredibly constrained. Separation of the agri-retail element to town centre would not be commercially or operationally viable. Predominantly domestic goods are sold at town centre premises and agricultural sector goods are sold at Dunbittern site.
- Existing farm retail premises represents 16% gross floor area of the building but is in need of modernisation.
- External garden centre will provide a range of garden goods, peat, plants, grass seed, fertiliser, ground sprays and fencing. There is a gap in the garden and DIY goods market in Bantry and surrounding area.
- Due to global manufacturing and supply issues, applicant seeks to futureproof viability of the farm centre. Mezzanine required for increased internal storage.

Compliance with planning policy

- Development Plan states that areas zoned business/general employment will 'facilitate a wide range of business and general employment uses', with the nature of these uses dependent on the nature of the use/operations and surrounding uses in the areas in which the development will be located. The proposal fits within nature of uses that currently exist within the zoned area but also incidental to primary function of the existing Farm Centre complex.
- Farm retail warehousing use is acceptable as produce is linked to the permitted agricultural general store use and there is sufficient flexibility in the Development Plan.
- Objective ZU 18-15 states that retail warehousing that is not suited to town centre or edge of centre locations is considered acceptable within this zoning under certain specific circumstances.
- Many of the farm retail warehouse sales are an add-on to sales that originate within the rest of the complex.

- Unreasonable to suggest that the subject development should be diverted to a site across the road. It would cause traffic issues and be potentially hazardous to public safety.
- The applicant is willing to enter into a suitably worded Section 38 agreement with the Council if same would alleviate concerns.

Provision for non-conforming uses

- Requests the Board to note specific provision for Non-Conforming Uses under Objective ZU 18-6 and Paragraph 18.2.3 of the Development Plan.

Materiality of alleged contravention of County Development Plan

- Planning reports and recommendation on which decision is based fail to justify that alleged contravention is material. The Board is justified in granting permission because:
 - Section 37(2)(b) II applies as Objectives ZU 18-6 and BT-B-05 are conflicting objectives;
 - Section 37(2)(b) IV applies as the proposed development is consistent with the pattern of land use which the Planning Authority has allowed to develop in the area since the zoning objectives were introduced.
- The decision implies that the proposal would be acceptable if relocated to opposite side of national secondary route. This demonstrates that the contravention is relatively trivial and technical and is not material.

Refusal of permission based on non-compliance with parent permission

- Permission granted under ABP PL 04.090925 (P.A. Ref. 92/3755) for general store for animal feeds, fertilisers, solid fuels and similar products and vehicle maintenance building. Condition 6 allows for 'incidental retailing use associated with the primary function of the development'. The Council appear to have interpreted this as having permitted storage alone, with no sales.
- The development description alludes to the agricultural nature of the proposal. It would not be unreasonable to allow incidental sale of other goods which are agricultural in nature.

- Planning and Development Regulations 2001 (as amended) do not prohibit the Council from considering an application which is consistent with policy objectives which were adopted since the previous decision was made.
- Farm Centre signage and advertisement insinuate that the development caters for the agricultural market. The public would not be enticed unless they had a prior understanding of the nature of the goods sold.
- Approximately 85% of customers are account holders and 80% of total sales are 'on account/credit' to account holders.

Other matters

Other matters raised in the appeal submission include:

- History of site zoning outlined with reference to CDP 1996, CDP 2003, CDP 2009, CDP 2014, Bantry Electoral Area Local Area Plans (EA LAPs) 2005, 2011 and 2015. CDP 1996 first introduced the concept of zoning with industrial zoned areas identified at Dunbittern.
- Section 2.7.47 (Vol. 5 of Development Plan) states that the wide catchment of Bantry requires that adequate provision be made for retail warehousing.

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. I consider the main issues in determining this appeal are as follows:

- Compliance with County Development Plan – Land Use Zoning, Non-Conforming Use, Retail and Traffic and Transportation
- Retention of Existing Farm Retail Warehouse Use

- Planning Authority's Decision to Refuse and Planning History
- Material Contravention

7.2. Compliance with County Development Plan – Land Use Zoning, Non-Conforming Use, Retail and Traffic and Transportation

Land Use Zoning

- 7.2.1. The subject site forms part of a larger landbank to which land use zoning **Objective ZU 18-15 Business and General Employment** (Vol. 1) and **Specific Development Objective BT B-05** (Vol. 5) apply.
- 7.2.2. Appropriate Uses in Business and General Employment Areas on Objective ZU 18-15 lands include retail warehousing where not suited to town centre or edge of centre locations, and states that retail warehousing could be accommodated where the specific zoning objective allows. Section 2.7.47 (Vol. 5 - West Cork) acknowledges that there are immediate difficulties in identifying suitable edge of centre sites in Bantry. It sets out in further detail the two particular areas in Bantry, namely Specific Development Objectives BT B-02 (Seafield) and BT B-03 (Dunbittern), where retail warehousing may be considered, i.e., the BT B-05 lands on which the subject site is located is not identified as one of these locations.
- 7.2.3. Having regard to the nature and scale of the development proposed to be retained comprising farm retail warehouse use and the proposed development comprising change of use of storage area to extended farm retail warehouse use and new garden centre, I consider that the proposed development would not be in compliance with the land use zoning Objective ZU 18-15, which states *inter alia* that retail warehousing could be accommodated where the specific zoning objective allows. As retail warehousing is not indicated as a use which could be accommodated on Objective BT B-05 lands, the development proposed to be retained and the proposed development would therefore materially contravene Objective ZU 18-15. Refusal of permission is recommended on this basis.
- 7.2.4. In addition, while it is emphasised in the grounds of appeal that the retail warehouse use is 'farm retail warehouse', the proposed development includes a new 103sqm garden centre. This covered and enclosed area would be accessed via the farm

retail warehouse area. The grounds of appeal state that there is no obvious draw for those outside the farming community to visit the site. However, notwithstanding the proposed access arrangements to the garden centre and the relatively limited extent of same, having regard to the nature of the goods to be sold in the garden centre, this additional area would appear to be distinct from the 'farm retail warehouse' use, and not intrinsically related to farming. I consider also that it would potentially attract the general public as customers, as distinct from the stated approx. 85% of Farm Centre customers who are account holders. As outlined above, I consider that the provision of the garden centre, on Objective BT B-05 lands, whereby retail warehousing is not identified as a use which could be accommodated under this specific zoning objective, would not be in compliance with land use zoning Objective ZU 18-15.

- 7.2.5. Separately, I note also that Section 18.3.39 states that the compatibility of a particular use or operation on Objective ZU 18-15 zoned lands will be dependent on the nature of the use/operations and surrounding uses in the area in which the development will be located. The grounds of appeal state that the proposed development fits within the nature of uses that currently exist within the zoned area and also incidental to the primary function of the existing Farm Centre complex. In this regard I noted on site inspection that the Topline Murphy O'Connor premises on the adjoining site appeared to be accessible by members of the public for the sale of goods, including DIY related goods. (Planning permission granted on this site under P.A. Ref. 98/611; see Section 4.0 Planning History). However, notwithstanding this, I consider that it has not been demonstrated that the subject development would be in compliance with Section 18.3.39. Furthermore, as outlined previously, I consider that the provisions of the Development Plan relating to Objective ZU 18-15 and Specific Development Objective BT B-05 are clear insofar as the subject site, located on BT B-05 lands, is not identified as an area where retail warehousing may be accommodated.

Non-Conforming Use

- 7.2.6. The grounds of appeal request the Board to note that there is specific provision in the Development Plan for non-conforming uses under **Objective ZU 18:6** and Section 18.2.3. However, the grounds of appeal do not elaborate on this matter with reference to this content of the Development Plan.

- 7.2.7. Section 18.2.3 states that reasonable intensification of extensions to and improvement of premises accommodating such uses will generally be permitted subject to normal planning criteria. I note the planning history of the subject site, whereby the development approved under ABP PL 04.090925 (P.A. Ref. 92/3755) was general store for animal feeds, fertilizers, solid fuels and similar products and vehicle maintenance building. Condition 6 of this permission states that the structure shall be used for storage purposes only and no retail, other than incidental retailing use associated with the primary function of the development shall be carried on therein. I noted on site inspection that within the internal retail area, products for sale include veterinary products, farm supplies, farm tools, power/hand tools and chainsaws and it contains a small drapery section.
- 7.2.8. The entire building including raised storage areas is approx. 1674sqm. The existing farm retail warehouse area is indicated to comprise 271.42sqm, which is stated to comprise 16% of the gross floor area of the building. It is proposed to modify and extend the farm retail warehouse area to 388.84sqm, which I estimate would represent 23.2% of the floor area of the overall building.
- 7.2.9. In addition, the inclusion of the approx. 103sqm garden centre would further increase the overall sales area to approx. 492sqm. Given the approx. 1674sqm floor area of the existing building, this would indicate that 29.3% of the modified and extended premises would relate to sales areas. I consider that the combined increase in 'farm retail warehouse' and new garden centre areas would be substantial in terms of floor area, would not be a reasonable intensification of a non-conforming use, and would not be in compliance with Section 18.2.3 of the Development Plan.
- 7.2.10. With regard to Objective ZU 18-6: Non Conforming Uses, this objective requires regard to be had to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals for lands in the vicinity of zoning boundaries.
- 7.2.11. Lands approx. 25m north east of the subject site, including the north eastern part of the overall Drinagh Farm Centre premises, and adjoining lands to the north east are zoned ZU 18-16: Industrial Areas. I do not consider that this land use zoning objective would be a more environmentally sensitive zone. Existing development on these adjoining lands comprises Barrett Agri – Independent Farm and Fuel and

Bantry recycling centre. The Barrett Agri premises is located approx. 115m northeast of the subject site, and is more distant from same at approx. 460m via the vehicular cul-de-sac route. Having regard to the distance of the subject site to the existing development on Objective ZU 18:16 - Industrial Areas lands, and which is accessed via a separate cul-de-sac, I consider that the subject development would not give rise to adverse impacts on this existing development.

7.2.12. For completeness, elsewhere in the vicinity, lands zoned ZU 18-15 and to which Specific Development Objective BT B-03 apply are located on the western side of the N71, approx. 110m from the subject site, and further distant where accessed via the entrance to Bantry Business Park. While the same land use zoning applies to the 7.1ha BT B-03 lands, and these lands are also identified for Business Development, the key difference is that retail warehousing and petrol filling station may be acceptable uses in this location.

7.2.13. As Objective ZU 18-6 states the requirement to 'have regard to' development in adjoining zones, I consider it adequate for the Board 'to have regard to' the assessment of the subject development on development in Industrial Area lands as outlined above. Notwithstanding the view outlined that the subject development would not give rise to adverse impacts on existing development on adjoining Industrial Area lands, I consider that the assessment under Objective ZU 18-6 would not by itself be grounds for granting permission for the subject development. Other objectives of the Development Plan directly relevant to the assessment of this appeal include Objective ZU 18-15 outlined above, which I consider not to have been complied with in the subject development, and Objectives TCR 9-16 and TCR 9-3 which are outlined below.

7.2.14. Accordingly, I conclude that it has not been demonstrated that there are sufficient grounds to grant permission pursuant to Objective ZU 18-6 of the Development Plan.

Retail

7.2.15. As outlined under **Objective TCR 9-16: Retail Warehousing (a)** the preferred location for new retail warehousing/bulky goods floorspace is in or adjacent to town centres, other locations will normally be discouraged, and individual settlement plans may identify suitable locations for retail warehousing where an identified need is demonstrated. Given that other locations where retail warehousing may be

considered are identified in the settlement plan for Bantry, i.e., Specific Development Objectives BT B-02 (Seafield) and BT B-03 (Dunbittern) lands, I note that the subject site on BT B-05 lands is therefore not in or adjacent to the town centre, nor is it identified as a suitable location in Section 2.7 (Bantry) of Vol. 5. Accordingly, I consider that the proposed development would not be in compliance with Objective TCR 9-16(a). Refusal of permission is recommended on this basis.

7.2.16. **Objective TCR 9-16: Retail Warehousing (b)** requires the range and type of goods sold to be restricted to bulky goods as defined in Annex 1 of the Retail Planning Guidelines, and ancillary products to not exceed 20% of the total net retail floorspace. The Retail Planning Guidelines define a retail warehouse as a large single-level store specialising in the sale of bulky household goods and bulky DIY items, catering mainly for car-borne customers. Having regard to the nature of the retail element on site, located within a limited (271sqm) part of a larger general store building, I consider that the subject 'farm retail warehouse' does not come within this definition.

7.2.17. Notwithstanding this, the requirement of Objective TCR 9-16: Retail Warehousing (b) relating to the range and type of goods which may be sold in a retail warehouse, including the proportionate area which may be devoted to ancillary products is noted. I noted on site inspection that while some of the goods sold within the farm retail warehouse would not be easily portable by customers travelling by foot, cycle or bus, a wide range of products on offer could not be considered 'bulky goods'. In relation to the proposed garden centre, it is noted that the Guidelines include tools and equipment for the garden as bulky goods. As the proposed ground floor plan does not differentiate between those areas allocated for sale of bulky goods or ancillary products, it therefore has not been demonstrated based on the information on file that ancillary products would not exceed 20% of the net retail floorspace. Refusal of permission is recommended on this basis.

7.2.18. I note that **Objective TCR 9-3: Retail Hierarchy** (Table 9-1) includes Bantry as a 'Larger Town'. While it states that Ring and Larger County Towns generally have a population in excess of 5,000, and the population of Bantry is less than this at 2,722 (Census 2016), I highlight in particular that Table 9-1 states, with regard to Larger Towns (and Ring Towns), cautious approach to out-of-centre retail warehousing. Having regard to the conclusion outlined above that the retail warehousing elements

proposed to be retained and proposed would not be in compliance with the Objective ZU 18-15 land use zoning, I consider also the subject development would, if permitted, not be a cautious approach to out-of-centre retail warehousing, and would therefore not be in compliance with Objective TCR 9-3: Retail Hierarchy. Refusal of permission is recommended on this basis.

Traffic and Transportation

- 7.2.19. Lands subject of Specific Development Objective BT B-05 comprise 7.9ha and require a Traffic Impact Assessment (TIA) and Road Safety Audit (RSA). In contrast, the 0.26ha subject site comprises a very limited part of the overall BT B-05 lands.
- 7.2.20. In addition, **Objective TM 12-8: Traffic/Mobility Management and Road Safety** includes that where traffic movements associated with a development proposal have the potential to have a material impact on the safety and free flow of traffic on National, Regional or other Local Routes, the submission of a Traffic and Transport Assessment (TTA) and Road Safety Audit will be required as part of the proposal.
- 7.2.21. Transport Infrastructure Ireland (TII) in its submission to the planning authority considered that the proposal is at variance with official policy in relation to control of development on/affecting national roads, outlined in Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG 2012), including Section 2.5 which states that it is policy to avoid the generation of increased traffic from existing accesses where the speed limit on national roads exceeds 60kph.
- 7.2.22. I note the content of Senior Executive Engineer's report on file, which states no objection, and that access to the existing facility is from an entrance onto a section of the N71 which was resurfaced, re-aligned and drainage upgraded by the National Road Design Office around 2021/2022.
- 7.2.23. The Drinagh Farm Centre site is located at the end of a cul-de-sac. There is one vehicular entrance only to the overall Farm Centre site, located in close proximity to the entrance to the adjoining Topline Murphy O'Connor premises. I note the increase in floor area of the retail warehouse use, including garden centre area, from existing 271sqm to approx. 492sqm. Notwithstanding this increase in sales area, having regard to the upgrading works carried out on this stretch of the N71 from which the cul-de-sac is accessed, and to the site area and scale of the subject development,

by itself and as a very limited proportion of the more substantial 7.9ha BT B-05 lands, I consider that a TIA and RSA would not be required in this instance.

- 7.2.24. While I consider that a TIA and RSA are not required in this particular instance, the land use zoning and Specific Development Objective BT B-05 with regard to retail warehousing are still a consideration, as outlined elsewhere in this report.
- 7.2.25. With regard to the overall proposed layout of the Farm Centre site, 11 no. customer car parking spaces and 6 no. cycle spaces are located north of the internal vehicular route. This route provides access to the internal vehicular 'drive through' of the building, and also towards the weighbridge at the eastern end of the building. The provision of the parking spaces as shown would require customers to traverse this route to access the 'shop'. I note that the Area Engineer's recommended FI request includes seeking relocation of (1 no.) disabled parking space and (2 no.) parent and child spaces to where the 10 no. existing spaces are. The existing 10 no. spaces are located outside the red line boundary, and within the landholding outlined in blue.
- 7.2.26. Having regard to the overall layout of the Drinagh Farm Centre site, including in particular the location of the vehicular 'drive through' within the building and the weighbridge, and the absence of a clear delineation of a pedestrian access route from the proposed customer parking areas to the 'shop' entrance, I would have concerns that the proposed site layout does not demonstrate how provision is made for pedestrian priority in terms of traffic safety.
- 7.2.27. However, notwithstanding the absence of details to demonstrate how traffic safety measures for all users/visitors to the overall Farm Centre site would be addressed in the subject development, and having regard to the substantive reason for refusal which is set out elsewhere in this report, it is not considered necessary to include the lack of details relating to traffic safety at the subject site as a reason for refusal.

7.3. Retention of Existing Farm Retail Warehouse Use

- 7.3.1. Having regard to the description of development and the plans and particulars on file, the proposed retention of existing farm retail warehouse use can be considered a distinct element of the subject appeal.
- 7.3.2. In assessing the retention element of the subject appeal, and whether a grant of retention permission for this internal floor area as farm retail warehouse use would,

by itself, be appropriate, I consider it relevant to have regard to the description of development, the planning history of the site, the plans and particulars on file, the provisions of the current County Development Plan and Retail Planning Guidelines 2012, and the site inspection carried out in the assessment of this matter.

- 7.3.3. In terms of detail, for clarity, I note that the existing farm retail warehouse comprises 271sqm. The proposed ground floor plan indicates that the existing farm retail warehouse to be retained would comprise 246.31sqm. (This floor area excludes proposed new stairs and extended lobby). However, this difference in floor areas is not considered to be a significant issue, as in the event that the Board was minded to grant retention permission for the existing farm retail warehouse only (excluding proposed new stairs and extended lobby), this area is clearly delineated on the lodged drawings.
- 7.3.4. As outlined under Section 4.0 Planning History, permission was granted in 1993 under ABP PL 04.090925 (P.A. Ref. 92/3755) for general store for animal feeds, fertilizers, solid fuels and similar products and vehicle maintenance building, subject to conditions. Condition 6 states that the structure shall be used for storage purposes only and no retail, manufacturing or other process other than incidental retailing use associated with the primary function of the development shall be carried on therein.
- 7.3.5. The description of the subject appeal includes retention of 'farm retail warehouse use', which contrasts with the nature of the permitted store with associated incidental retailing use, as outlined above. Some of the products noted on site inspection within the internal farm retail warehouse would not in my opinion come within the terms of the permitted development, noting, for example, the small drapery section, power tools and chainsaws.
- 7.3.6. The nature of the 'farm retail warehouse use' proposed to be retained in this appeal is also discussed under Para. 7.2.16 and Para. 7.2.17 with reference to Objective TCR 9-16: Retail Warehousing (b) of the Development Plan and the Retail Planning Guidelines 2012.
- 7.3.7. The plans and particulars on file indicate that the existing farm retail warehouse comprises 271sqm, or 16% of the overall building on site. I consider that the existing 'farm retail warehouse use' would not come within the meaning of 'retail warehouse' as defined in the Guidelines, as it forms a limited part only of a general store. In

addition, a wide range of products for sale within this area could not be described as 'bulky goods'. I consider that it has not therefore been demonstrated that ancillary products would not exceed 20% of the net retail floorspace, as recommended in the Guidelines.

- 7.3.8. Notwithstanding the planning history of the site which allows for incidental retailing use, ancillary to the main function of the development permitted by ABP PL 04.090925 (P.A. Ref. 92/3755), and that the sales area proposed to be retained in this appeal does not fit within the definition of 'retail warehouse' as per the Guidelines, I consider that having regard to current context of the site, and noting in particular the nature of the goods sold within the existing 'farm retail warehouse', that the use proposed to be retained would not be in compliance with the land use zoning Objective ZU 15:18 and Specific Development Objective BT B-05 which apply to the subject site, and to permit a use contrary to the current Development Plan would be inappropriate. As outlined elsewhere in this report, the BT B-05 lands are not identified as a specific development objective under which retail warehousing may be accommodated. Accordingly, I recommend that permission to retain the existing farm retail use should be refused.
- 7.3.9. For completeness, I note that the grounds of appeal emphasise that many of the farm retail warehouse sales are add-ons to sales that originate within the rest of the complex, and also state that approx. 85% of customers are account holders. While the premises can be accessed by the general public, having regard to the information on file it would appear that the current operation of the retail element differs from a 'standard' retail unit. In the event however that the Board considers that the existing 'farm retail warehouse use' is more akin to a retail unit, I highlight, for clarity, that Objective ZU 18:15 states *inter alia* that uses specifically excluded from the business category include general retail development.

7.4. **Planning Authority's Decision to Refuse and Planning History**

- 7.4.1. The appeal submission states that the Planning and Development Regulations 2001 (as amended) do not prohibit the Council from considering an application which is consistent with policy objectives which were adopted since the previous decision was made, and that the Council has a legal obligation to consider each planning application on its merits in accordance with current policy and practice. Elsewhere in

the appeal submission, various land use zoning objectives which applied to the subject site in subsequent plans (Development Plans and Local Area Plans) are outlined. These include that the subject site was zoned 'primarily industry/enterprise' in Bantry Electoral Area LAP 2005. This is stated to have been guided by the Development Plan 2003 framework, which includes some retailing as the broad mix of employment uses under this zoning.

- 7.4.2. I consider that notwithstanding that the appeal site may have been subject to various land use zonings subsequent to the decision on ABP PL 04.090925 (P.A. Ref. 92/3755), one of the relevant issues in the assessment of the current appeal is the application of the operative County Development Plan. As outlined elsewhere in this report, I consider that the subject development would not be in compliance with objectives of the current Development Plan, namely Objective ZU 18-15, Specific Development Objective BT B-05, and Objective TCR 9-16(a), and on the basis of the information on file, that it has not been demonstrated that subject development would be in compliance with Objective TCR 9-16: Retail Warehousing (b). Accordingly, I consider it appropriate that permission be refused on the basis of non-compliance with the current Development Plan.
- 7.4.3. Separately, the planning authority's reason for refusal includes that the proposed development to retain and further extend the farm retail warehousing on these lands would materially contravene a condition attached to the existing parent permission, to the detriment to the vitality and viability of Bantry Town.
- 7.4.4. I consider that while the subject development to retain and further extend farm retail warehousing and the provision of a new garden centre would not be in compliance with Condition 6 of ABP PL 04.090925 (P.A. Ref. 92/3755), a planning application may however be made to the planning authority and to the Board on appeal for development on the subject site. I do not consider it necessary to include that the subject development would contravene materially a condition of the parent permission as a reason for refusal.
- 7.4.5. With regard to the refusal reason's reference to the detriment to the vitality and viability of Bantry Town, I note that the Development Plan (Vol. 5 – West Cork) states that present congestion difficulties around the town centre imply that bringing further HGV traffic associated with retail warehousing through the town centre would

not be the best strategy in the medium to long term (at Section 2.7.49), and also that there are immediate difficulties in identifying suitable edge of centre sites in Bantry (at Section 2.7.47). In light of this, the Development Plan identifies two immediate choices which present themselves as suitable lands for retail warehousing options, namely lands at Seafield (BT B-02) and Dunbittern (Bantry Business Park; BT B-03). Having regard to this content of the Development Plan, which outlines the rationale as to why retail warehousing in Bantry town centre would not be the best strategy in the medium to long term, I do not consider that the subject development would, if permitted, be detrimental to the vitality and viability of Bantry town, and accordingly, I do not consider it appropriate to include this matter as a reason for refusal.

7.4.6. For clarity, with regard to the matter of detrimental impacts on Bantry town outlined above, I note that some products within the existing farm retail warehouse are not considered to be bulky goods, as noted on site inspection. However, the nature of the overall subject development, which includes extended farm retail warehouse area and new garden centre are also taken into account in the assessment of this matter, and having regard to the plan-led approach to the provision of retail warehousing in Bantry as set out in the Development Plan, I consider that the subject development would not be detrimental to the vitality and viability of Bantry town.

7.5. **Material Contravention**

7.5.1. As per my assessment outlined above, I consider that the development proposed to be retained and the proposed development would be a material contravention of the Development Plan. Therefore, one or more of the criteria as set out in Section 37(2)(b) of the Planning and Development Act 2000, as amended (hereafter referred to as 'the Act'), must be met in the event that the Board was minded to grant permission in this instance. Section 37(2)(a) and (b) of the Act state the following:

(2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.5.2. The criteria set out under Section 37(2)(b) are assessed as follows:

(i) the proposed development is of strategic or national importance,

Having regard to the nature and scale of the subject development, this development is not considered to be of strategic or national importance.

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

The grounds of appeal include that Section 37(2)(b)(ii) applies as Objectives ZU 18-6 and BT B-05 are conflicting objectives. However, the grounds of appeal do not expand on this matter. In this regard I note that:

- Objective ZU 18-6 Non Conforming Uses requires regard to be had to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals for lands in the vicinity of zoning boundaries.

- Specific Development Objective BT B-05 applies to lands which include the subject site and is set out in Vol. 5 (West Cork).

I consider that there is no ambiguity in the Development Plan with regard to Specific Development Objective BT B-05. The ZU 18-15 land use zoning on which the site is located states that retail warehousing could be accommodated where the specific zoning objective allows. Specific Development Objective BT B-05 which applies to the subject site does not include any reference to retail warehousing being accommodated. Accordingly, retail warehousing is not considered permissible on the subject site.

With regard to non-conforming uses, this is also discussed in more detail under Para. 7.2.6 to Para. 17.2.14 of this report. Objective ZU 18-6 requires regard to be had to development in adjoining zones, in assessing development proposals. While I do not consider that the adjoining Objective ZU 18-16: Industrial Areas land use zoning is a more environmentally sensitive zone, nor that development on these adjoining lands would be unduly impacted by the subject development, the requirement set out in Objective ZU 18-6 is to 'have regard to' development in adjoining zones. I therefore consider it adequate to have regard to this matter, and to conclude that the assessment of the subject development with reference to Objective ZU 18-6 would not by itself be grounds to warrant a grant of permission for the subject development.

Objective ZU 18-6 is an objective which would have county-wide application, as relevant, and Specific Development Objective BT B-05 relates to 7.9ha of lands at Bantry of which the site forms a part. Based on the information on file, and the provisions of the Development Plan, I consider that Objective ZU 18-6 and Specific Development Objective BT B-05 are not conflicting objectives. Accordingly, I consider that the subject development does not meet the criteria set out under Section 37(2)(b)(ii) of the Planning and Development Act 2000, as amended.

(iii) Permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any

relevant policy of the Government, the Minister or any Minister of the Government, or

I do not consider that there are grounds under which permission for the subject development should be granted having regard to strategies, guidelines, policies or statutory obligations outlined above.

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

The grounds of appeal state that Section 37(2)(iv) applies as the proposed development is consistent with the pattern of land use which the planning authority has allowed to develop in the area since the zoning objectives were introduced.

However, the applicant has not provided examples of the pattern of development, and permissions granted, in the area since the making of the development plan, to demonstrate how Section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, is applicable in this case.

Cork County Development Plan 2022-2028 came into effect on 6 June 2022. With regard to permissions granted in the area since the making of the Development Plan, an online planning search on the planning authority's website (viewed on 5 January 2024) indicates 3 no. permissions were granted subsequent to June 2022 on the opposite (western) side of the N71 in Bantry Business Park. These 3 no. planning permissions (P.A. Ref. 23/56, P.A. Ref. 23/289 and P.A. Ref. 22/136) are outlined in brief under Section 4.0 Planning History of this report. However, while these planning applications are located on the same land use zoning (Objective ZU 18-15) as the subject site, Special Development Objective B BT-03 applies to these lands, on which retail warehousing may be an acceptable use. This objective does not apply to the appeal site. Accordingly, I consider that the Development Plan context under which these permissions were granted since the making of the Development Plan is not directly comparable to the subject site on BT B-05 lands, and these permissions do not set a precedent.

Accordingly, I consider that it has not been demonstrated that the subject development meets the criteria set out under Section 37(2)(b)(iv) of the Act.

- 7.5.3. Having considered the file, and the provisions of the Development Plan, I do not consider that any one or more of the criteria set out under Section 37(2)(b) of the Act are met, and I therefore conclude that there are no grounds for the Board to grant permission in accordance with Section 37(2)(a) when the refusal is on the grounds of it being a material contravention of the Development Plan.
- 7.5.4. If however notwithstanding the matters outlined above, the Board considers that the subject development does not materially contravene the zoning objective, I highlight that I consider that the subject development also does not comply with **Objective TCR 9-16: Retail Warehousing (a)**. This objective states that the preferred location for new retail warehousing/bulky goods floorspace is in or adjacent to town centres, other locations will normally be discouraged, and individual settlement plans may identify suitable locations for retail warehousing. The subject site is neither in nor adjacent to the town centre, nor are the BT B-05 lands on which the site is located identified as a suitable location for retail warehousing in Section 2.7 (Vol. 5). Accordingly, I consider that the proposed development would not, if permitted, be in compliance with Objective TCR 9-16: Retail Warehousing (a), and would militate against the plan-led approach in the Development Plan to the provision of retail warehousing.

8.0 **Appropriate Assessment Screening**

- 8.1.1. I note that the Area Engineer's report seeks FI, requesting *inter alia* surface water drainage outfall to watercourse to be made available for inspection. In the event that the Board was minded to grant permission, the Board may wish to pursue this matter.
- 8.1.2. However, I also note that the curtilage of the existing Farm Centre premises, including the area of the proposed garden centre, is currently hardsurfaced. Having regard to the nature and scale of the development proposed to be retained and proposed relating to a change of use and a proposed garden centre, the nature of the receiving environment within an established commercial premises and the separation from the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a

significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

9.1. It is recommended that permission be refused for the reasons set out below.

10.0 Reasons and Considerations

1. The site is located in an area zoned ZU 18-15: Business and General Employment and is subject to Specific Development Objective BT B-05 in the Cork County Development Plan 2022-2028. Having regard to the nature and scale of the development proposed to be retained and the proposed development, the Board considers that the subject development would materially contravene the zoning objective and Specific Development Objective BT B-05, as set out in this Development Plan. The Board pursuant to the provisions of section 37(2)(b) is precluded from the granting of planning permission for the development proposed to be retained and the proposed development as none of the provisions of section 37(2)(b)(i), (ii), (iii) or (iv) of the said Act apply in this case. Furthermore, the subject development would not be in compliance with Objective TCR 9-3: Retail Hierarchy and Objective TCR 9-16: Retail Warehousing (a) of the Development Plan, and it has not been demonstrated to the satisfaction of the Board based on the information on file that the proposed development would be in compliance with Objective TCR 9-16: Retail Warehousing (b). The development proposed to be retained and the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Cáit Ryan
Senior Planning Inspector

10 January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315915-23		
Proposed Development Summary	Retention of existing farm retail warehouse use and Permission for change of use of part of existing storage to extended farm retail warehouse use, construction of new garden centre, construction of new storage mezzanine level, and associated site works.		
Development Address	Drinagh Farm Centre, Dunbittern East, Cork Road, Bantry, Co. Cork P75 PC81		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X	N/A	N/A
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Cáit Ryan_____

Date: 10 January 2024_____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315915-23	
Proposed Development Summary	Retention of existing farm retail warehouse use and Permission for change of use of part of existing storage to extended farm retail warehouse use, construction of new garden centre, construction of new storage mezzanine level, and associated site works.	
Development Address	Drinagh Farm Centre, Dunbittern East, Cork Road, Bantry, Co. Cork P75 PC81.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	<p>There is an existing commercial premises to the south west, and an agri-business (farm and fuel) premises and recycling centre to the north east. The proposed development is not exceptional in the context of the existing environment.</p>	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Having regard to the nature and scale of the proposed development, the development would not result in the production of any significant waste, emissions or pollutants.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>Having regard to existing development on adjoining and nearby sites, the size of the proposed development is not exceptional in the context of the existing environment.</p>	No
<p>Are there significant Cumulative</p>	<p>There are no significant cumulative considerations having regard to existing projects.</p>	No

considerations having regard to other existing and/or permitted projects?		
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	The proposed development is not located on, in or adjoining, nor does it have the potential to significantly impact on an ecologically sensitive site or location. The proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.	No No
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out.	There is a real likelihood of significant effects on the environment. EIAR required.

Inspector: **Cáit Ryan** _____

Date: **10 January 2024** _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)