



An
Bord
Pleanála

Inspector's Report

ABP-321601-25

Development	Retention: Change of use from retail to fast food takeaway.
Location	Unit 19, Castle Mill Shopping Centre, Balbriggan, Co. Dublin, K32 CC98.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F24A/0806E
Applicant(s)	Ming Gao
Type of Application	Retention Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Ming Gao
Observer(s)	None
Date of Site Inspection	28 th March 2025
Inspector	Emma Gosnell

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1.0 Site Location and Description

- 1.1. The appeal site is located within the Castle Mill Shopping Centre in north-west Balbriggan, Co. Dublin. The shopping centre comprises of 3 no. 3-4 storey buildings in mixed-use with a variety of retail, cafés/ restaurants, professional services and fast food outlets on the ground floor with apartment units on the upper floors. Resident and customer car parking is provided on-street within the complex and in an underground car park. The centre features 4 no. other fast food outlets/ take-aways (the Doner Station, Giovanni's Fish and Chips, Treasure Bowl Chinese, Pizza Hot Balbriggan).
- 1.2. The Flemington Community centre (and its sports facilities) is located c. 70m to the south-west of the appeal site whilst the Balbriggan Educate Together National School, which shares the same vehicular entrance off The Park road, is located c. 135m to the south-west of the unit.
- 1.3. The c. 0.019 ha site comprises of a c. 184sq.m commercial unit which is adjoined to the north and overhead by residential apartments. The premises subject of the appeal is located at the southern end of the centre's Block C, the easternmost building which is 3-storeys in height, and comprises of a ground floor commercial unit (No. 19) which addresses the junction of The Park road and Newhaven Bay road.
- 1.4. The curved elevation of the unit is extensively glazed and features 2 no. sets of double doors. Its fenestration is largely obscured by window decals advertising the fast food products sold within. The unit is entered from an enclosed terraced area on its south east side which is accessed via a ramp and a set of steps leading up from the public footpath at street level. The unit's shopfront is comprised of buff brick with tile inserts and it features 3 no. separate signs at fascia level (one on its south (front) elevation and 2 no. on its west (side) elevation, together with a further round projecting sign on its east (side) elevation.
- 1.5. The application was accompanied by a letter of consent from the property owner.

2.0 Proposed Development

- 2.1. The development comprises of retention for the change of use of an existing commercial unit from retail use to use as a shop for the sale of hot food (pizza) as well as cold non-alcoholic drinks and desserts, mainly for home delivery, with ancillary

customer collection. Retention permission is also sought for the retention of 1 no. externally illuminated fascia/ shopfront sign.

- 2.2. Further information (FI) was submitted on the 19th November 2024 and was not deemed to be significant.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for 3 no. reasons relating to the locating of fast food outlet near a school; the failure to demonstrate compliance with development plan policy on fast food/ takeaway outlets; and, issues with the character/ quality of shopfront signage.

3.2. Planning Authority Reports

3.2.1. Planning Reports

2 no. planning reports formed the basis of the planning authority's (PA) assessment:

Planner's Report (25/10/2024) – Initial Application Stage

The report sets out the relevant planning history, policy context, issues raised by prescribed bodies and in internal departmental reports, and undertakes a planning assessment, EIA Screening and AA Screening. Points of note raised in the report are as follows:

- **Impact on child health** - Proximity to/ visibility from local national school and community centre is considered inappropriate and would put health/ wellbeing of school going kids at risk.
- **Signage** - externally illuminated fascia signage on south elevation is excessively visually prominent and would be highly visible from school and community centre to the south-west and from the balconies of adjoining apartments. It would also be out of character with the building and streetscape and injurious to visual amenity – on this basis signage should be omitted.
- **Proliferation** - Insufficient information submitted to illustrate compliance with Development Plan policy seeking to control non-retail uses and fast food outlets/

takeaways – re: proposed hours of operation and make-up of non-retail uses in shopping centre.

- **Drawings** - concerns raised re: accuracy and nature/ extent of in-situ signage.
- **Bike Parking** - Substandard provision & issues catering for delivery driver's bikes.

A request for FI issued on the 25/10/2024 in relation to 4 no. items:

1. Submission of details which fully address requirements of Objective DMSO96 (Fast Food/ Take-Away Outlets) and provision of further details on existing uses operating at Castle Mill Shopping Centre as per Objectives EEO104 (Non-Retail Uses) and EEO105 (Prevent Over-Supply of Specific Uses /Outlets).
2. Compliance with Objective DMSO97 (Location of Fast Food Outlets) having regard to the visibility from/ proximity to Balbriggan Educate Together National School.
3. Submission of revised drawings which illustrate existing signage erected at the site – i.e. full detail of fascia signage and round projecting sign on eastern elevation.
4. Proposals to address bike parking shortfall which may include provision of 2 no. Sheffield stands on paved area to front of unit and extension to application red line.

Planner's Report (09/12/2024) – Further Information Stage

This report provided an assessment of the FI received and took into consideration a further report from the Transport Planning Section. Points of note include:

- Item 1 – response deemed unsatisfactory on basis of non-provision of information on proposed opening hours, location of vents/ external services etc. and on existing level of fast food outlets in locality. Insufficient information on file for PA to determine likely impacts on neighbouring amenities and loss of retail opportunities.
- Item 2 – response deemed unsatisfactory on basis of proposal's unparalleled proximity to/ visibility from the nearby national school and community play area coupled with the nature and prominence of its fascia signage on south elevation.
- Item 3 - response deemed satisfactory on basis of revised drawings and applicant's proposal to remove round projecting sign on the east (side) elevation. Report recommends that condition be attached to ensure no further signage is erected.

- Item 4 – response deemed unsatisfactory on basis of continuing non-compliance with plan’s bike parking standards and Objective DMSO109 and applicant’s encouragement of unsuitable informal bike parking arrangements in public realm.

The report concluded by recommending that permission be refused.

3.2.2. Other Technical Reports

Initial Application Stage

- Transportation Planning Section (TPS) (17/10/2024) – further information requested on 2 no. items – provision of bike parking and consent for related works.
- Environment Section (Waste Enforcement and Regulation) (02/10/2024) – no objection to proposal.
- Water Services Department (04/10/2024) - no objection to proposal.

Further Information Stage

- TPS (03/12/2024) – no objection subject to a condition requiring applicant to comply with future requirement of council to adjust lighting level of fascia signage.

3.3. Prescribed Bodies

Initial Application Stage

- Uisce Eireann (20/09/2024) – no objection in principle subject to conditions.

Further Information Stage

No submissions.

3.4. Third Party Observations

None received.

4.0 Planning History

4.1. Site

P.A. Ref. 21/127A – there is an active enforcement case open on the site.

4.2. Block C

P.A. Ref. F04A/1767 – Permission granted on 22/03/2005 for change of use of ground floor of Block C from 8 no. apartments to five no. retail units (total area 397 sq.m.) and a cafe with external seating area (area 188sq.m.) with new shopfronts to west elevation and minor amendments to south, east and north elevations, subject to 11 no. conditions. [The permitted use of the unit subject to appeal was as a café with external seating. No fascia signage was sought/ permitted as part of this application].

P.A. Ref. F19A/0163/ PL06F.304753 – (Unit 16) Permission granted on appeal 17/10/2019 for change of use from retail to amusement arcade subject to 8 conditions.

P.A. Ref. F22A/0289 – (Units 12 and 13) Retention permission granted on 28/07/2022 for amalgamation of ground floor level units to form single retail food store (204sqm), subject to 8 no. conditions.

4.3. Castle Mill Shopping Centre

P.A. Ref. F00A/1464 – Permission granted on 26/04/2002 for 1,519 no. dwellings together with a mixed use Local Service Centre in three storey buildings comprising a convenience shop (c.321 sq.m.), newsagent (c.94 sq.m.), 5 additional retail units (total c.511 sq.m.), pharmacy (c. 122 sq.m.), dentist (c. 72 sq.m.), doctors surgery (c.225 sq.m.), health centre (c.154 sq.m.), library (c.209 sq.m.), public house (c.490 sq.m.), restaurant (c.240 sq.m.) and a single storey creche (c. 510 sq.m.), together with 54 no. apartments, together with all ancillary works, subject to 49 no. conditions.

P.A. Ref. F21A/0441 – Permission granted on 16/11/2021 for change of use of an existing retail unit to use as ethnic convenience retail food outlet with new signage, subject to 9 no. conditions.

P.A. Ref. F09A/0297 – Permission refused on 30/07/2009 for change of use of retail unit to amusement arcade for 2 no. reasons: 1. Zoning and 2. Injury to local amenity.

P.A. Ref. F08A/1135 – Permission granted on 07/11/2008 for change of use of restaurant units to restaurant and takeaway use (hot food for consumption off premises), subject to 6 no. conditions – incl. takeaway ancillary only, restricted opening hours and no new advertising signs/ structures be attached to premises without permission.

4.4. Other Relevant Appeals

P.A. Ref. F18A/0340/ PL06F.304077 – (Skerries Point, Barnageeragh Road, Skerries)
Permission granted on appeal on 04/09/2019 for construction of restaurant with a drive through collection and service point subject to 13 no. conditions.

The appellant also makes reference to a Board decision under PL27.RL2179 in which it is stated that the Board held that the sale of hot food from a grocery premises was not development. I could find no record of this referral in the Board's records.

Similarly, the grounds of appeal refer to a Board decision under PL29N.242446 under which it is stated that the opening hours and the location of vents/ services for a proposed development were addressed by condition. A record of this appeal could also not be found in the Board's records.

5.0 Policy Context

5.1. Development Plan

The Fingal Development Plan (FDP) 2023 – 2029 applies.

5.1.1. Zoning

- Section 13.5 (Zoning Objectives, Vision and Use Classes)
- The site is zoned 'Objective LC – Local Centre' with the Objective 'To Protect, provide for and/or improve local centre facilities'.
- The vision for 'LC' lands is to mix of local community and commercial facilities for the existing and developing communities i.e. a range of community, recreational and retail facilities at locations which minimise the need for use of the private car and encourage pedestrians, cyclists and the use of public transport.
- Fast Food Outlets and Takeaways are Permitted in Principle under 'LC' zoning.

5.1.2. Retail/ Settlement Policy

Balbriggan is designated as a Level 3 settlement in the Fingal Retail Hierarchy.

Objective EEO95 (Ensure Sufficient Retail Offer in Level 3 Town Centres)

5.1.3. Fast Food Outlets/ Takeaways

Objectives EEO104 (Non-Retail Uses) and EEO105 (Prevent Over-Supply of Specific Uses / Outlets)

Section 14.15.4.2 (Types of Retail Development) a. Fast Food/Takeaway Outlets

Objective DMSO96 (Fast Food / Takeaway Outlets): Development proposals for fast food/takeaway outlets will be strictly controlled and all such proposals are required to address the following:

- The cumulative effect of fast food outlets on the amenities of an area.
- The effect of the proposed development on the existing mix of land uses and activities in an area.
- Opening/operational hours of the facility.
- The location of vents and other external services and their impact on adjoining amenities in terms of noise/smell/visual impact.

DMSO97 (Location of Fast Food Outlets): Give careful consideration to the appropriateness and location of fast food outlets in the vicinity of schools and, where considered appropriate, to restrict the opening of new fast food/takeaway outlets in close proximity to schools so as to protect the health and wellbeing of school-going children.

Appendix 7 (Technical Guidance) - Fast Food Outlet/Take-Away: The use of a building, or part thereof, for the sale of hot food that is served and prepared quickly for consumption on or off the premises.

5.1.4. Shopfronts/ Visual Amenity

Sections 14.2.4 (Safety and Security) and 14.4.5 (Shopfront Design)

Table 14.1 Shopfront Design Guidance and Table 14.2 Shopfront Design Checklist

DMSO9 (Prevent the Use of Film/ Screening in Shopfront Windows), DMSO10 (Corporate Logos, Lighting, Design and Colour), DMSO12 (Evaluation of Signage Proposals)

5.1.5. Bike Parking

Section 14.17.2 (Bicycle Parking), Table 14.17 (Bicycle Parking Standards), Objective DMSO109 (Bicycle Parking in New Developments)

6.0 Natural Heritage Designations

The appeal site is not located within or adjoining any designated site.

The nearest European Sites and Natural Heritage Areas in close proximity to the appeal site are as follows:

- North-West Irish Sea SPA (Site Code 004236) – approx. 1.5km
- River Nanny Estuary and Shore SPA (Site Code 004158) - approx. 4.2km
- Skerries Islands NHA (Site Code 001218) - approx. 8km
- Skerries Islands SPA (Site Code 004122) - approx. 8km
- Rockabill to Dalkey Island SAC (Site Code 003000) – approx. 9.7km
- Rockabill to Dalkey Island SPA (Site Code 004014) – approx. 9.7km
- Boyne Coast and Estuary SAC (001957) – approx. 10.2km
- Rogerstown Estuary SAC (Site Code 000208) - approx. 12.3km
- Rogerstown Estuary SPA (Site Code 004015) – approx. 12.3km.

7.0 EIA Screening

There is no real likelihood of significant effects on the environment based on the characteristics and location of the proposed development to be retained and types and characteristics of potential impacts. No EIAR is required. Refer to Form 1 (EIA Pre-Screening) and Form 2 (EIA Preliminary Examination) in the Appendices.

8.0 The Appeal

8.1. Grounds of Appeal

A first party appeal submission was received on 07/01/2025 and seeks to address the PA's reasons for refusal. The grounds of appeal can be summarised as follows:

- Proposed use is explicitly permitted under site zoning and does not conflict with previous planning conditions or other uses in the shopping centre.
- Permissibility under LC zoning outweighs insubstantial (health) policy concerns.
- Unit's nature and layout is suited to the use to be retained.

- There are no 3rd party or technical/ engineering objections to proposal.
- PA's concerns re: signage (refusal reason No.3) didn't warrant a refusal – could have been addressed via condition.
- PA refusal reason No. 2 not sufficiently clear on why proposal was non-compliant with Objective DMSO96 (Fast Food/ Takeaway Outlets). Applicant should have been given opportunity to address operational information deficit by condition as per approach taken by Board on PL29N.242446 to odour control/ opening hours.
- The photo of a totem pole provided as part of FI adequately addressed the PA's query as to the existing level of 3 no. fast food outlets in the shopping centre and there is no evidence that there is an excessive concentration of takeaways.
- Unit's opening hours do not correspond with school times – so no issue re: health.
- Sale of hot food for consumption off retail/ grocery premises is widespread and there are already existing hot food outlets in the shopping centre near the school.
- Objective DMSO97 puts onus on schoolchildren to not consume excess amounts of high fat foods rather than prohibiting fast food outlets in vicinity of schools.
- Precedent re: practical application of Objective DMSO97 set by Board grant for restaurant with drive-thru near local school in Skerries under PL06F.304077.

8.2. **Planning Authority Response**

The PA, in their response received 30/01/2025, note the grounds of the first party appeal and seek that their decision to refuse retention permission be upheld. In the event that their decision is overturned they seek that the Board attach conditions in respect to a S. 48 development contribution and in respect to a tree bond/ cash security.

8.3. **Observations**

None received.

8.4. **Further Responses**

None received.

9.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, and having inspected the site, and having regard to relevant local policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Policy on Fast Food Outlets/ Takeaways
- Signage
- Other

9.1. Principle of Development

9.1.1. The development to be retained is located in an area covered by the 'LC - Local Centre' zoning objective.

9.1.2. The description of development applied for seeks retention permission for the change of use from retail to use as a shop for the sale of hot food (pizza) and cold non-alcoholic drinks and desserts for consumption off the premises (via delivery/ customer collection). I note from the site's planning history that the permitted use of Unit 19 is as a café.

9.1.3. Having reviewed the land use definitions provided for under Appendix 7 of the FDP I am of the view that the use to be retained constitutes a fast food outlet/ takeaway – a use which is permitted in principle under the LC zoning matrix. I therefore consider the proposal to be acceptable in principle, subject to the detailed considerations below.

9.2. Policy on Fast Food Outlets/ Takeaways

Compliance with Objective DMSO97 (Location of Fast Food Outlets)

9.2.1. The PA raise concerns in respect to the proximity of the proposal to the Balbriggan Educate Together National School (located within c. 135m of entrance to same) and to the communal outdoor play area associated with Flemington Community Centre recreation area (within c. 70m) and its prominence/ visibility in direct view of both – particularly on account of the externally illuminated fascia signage on its south

elevation – and refused permission on this basis (reason No. 1). They considered the relationship to be non-compliant with Objective DMSO97 which seeks to give careful consideration to, and where necessary restrict, the opening of new fast food/ takeaway outlets in close proximity to schools in order to protect child health/ wellbeing.

- 9.2.2. The grounds of appeal state that, as the unit currently opens at 6pm, no conflict arises between its operation and the operating hours of the nearby primary school – after such time children are under the control of their parents. On this basis, the appellant contends that there is no potential for their proposal to impact on the health and/ or wellbeing of local children. The grounds also highlight the existence of other fast food outlets/ takeaways already operating in the vicinity of the school.
- 9.2.3. In respect to the matter of the unit's hours of operation, I note that the PA were not satisfied as to the accuracy of the hours of operation given by the appellant at FI stage (i.e. where it was stated that the unit opens for business at 6pm as reiterated in the grounds of appeal) on the basis that the publicly listed opening hours of the unit are given elsewhere as 12pm to 3am. Furthermore, the unit was observed to be open during the PA's site inspection which was stated to have taken place on a weekday during school's operating hours.
- 9.2.4. I note from publicly available information on Google Maps (accessed on 19/03/2025) that the listed opening hours (for delivery and collection) of 'Pizza Max Balbriggan' which operates from the appeal site are 12pm to 3am and therefore the appellants appear to be incorrect in their statement that they operate from 6pm. The opening hours of the Flemington Community Centre are given as 7.30am – 10pm, with those of the national school being given as 8.40am – 2.20pm. On this basis, it is clear to me that there is an overlap between the operation of the fast food takeaway and those of the school/ community centre.
- 9.2.5. The Board, in considering the issue of the location of a proposed fast food outlet in proximity to local schools under PL06F.304077, noted in respect to primary schools that, due to their age profile (typically 5-12 years), students are typically not permitted to leave the premises on lunch breaks or during the school day. However, it is conceivable to me that, given the advertised opening hours of the unit, students (particularly older students) and other children seeking to use the community centre's

sports and other facilities (next to the school) would have the opportunity to visit the unit after school/ on their way home.

- 9.2.6. The wording of Objective DMSO97 refers to 'restricting the opening of' new fast food/ takeaway outlets in close proximity to schools so as to protect the health and wellbeing of school-going children. I consider that it would therefore be appropriate to address the matter of the unit's hours of operation by condition to ensure that there would be no direct conflict between its hours of operation and that of the school and the children's home time (i.e. c. 2.30pm – 3.30pm). On this basis, I recommend the attachment of a condition to ensure that the subject unit would not open for business before 3.30pm. In respect to the unit's current late-night operation until 3am, I consider that this should be subject to greater control in order to ensure that late night opening would not give rise to nuisance to adjoining residents. I note that the amusement arcade recently permitted in Unit 12 of Block C under PL06F.304753 was subject to a condition which sought that it close at 10pm (Monday to Sunday inclusive) in order to protect residential amenity. Publicly available information on Google Maps also shows how three out of the four other take-away businesses in the centre close at 12am with the other closing at 11pm. Therefore, whilst I acknowledge the hours of operation conditioned by the Board under PL06F.304753, given that there is an established practice of ground floor fast-food outlets in the local centre opening until 12am with the adjoining neighbours being acclimatised to this practice, I consider that it would be appropriate to attach a condition to require the unit's closure by 12am.
- 9.2.7. In respect to the prominence/ visibility of the unit from the school/ community centre on account of its fascia signage, I consider that this matter could be addressed by the attachment of a condition to omit this element if the Board were minded to grant permission. The matter of signage is addressed more fully in section 9.3 of this report.
- 9.2.8. As per the above assessment, the unit's visibility/ visual prominence and hours of operation can be controlled via the attachment of planning conditions. I consider that the practical application of these measures would mitigate its potential to give rise to negative public health impacts on school going children in the area and therefore, I am satisfied that the PA's concerns re: its contravention of Objective DMSO97 can be overcome.

Compliance with Objective DMSO96 (Fast Food / Takeaway Outlets)

- 9.2.9. The PA's refusal reason No. 2 states that the applicant failed to provide for full details on their proposed fast food/ takeaway outlet in order to demonstrate compliance with Objective DMSO96, which seeks to control the development of fast food/ takeaway outlets by requiring proposals to address cumulative impact on amenity and local use mix; detail hours of operation; and, to demonstrate how location of vents/ services take account of sensitivities of adjoining amenities. The PA's 2 no. reports also raise concerns that insufficient information was provided to demonstrate that there is not already an oversupply of fast food takeaway outlets at the shopping centre or that the proposal would not lead to a net loss of retail development potential as per Objectives EEO104 and EEO105.
- 9.2.10. The appellant submits that a refusal on the grounds of material contravention of Objective DMSO96 was unwarranted and that information in respect to opening hours and odour control etc. could have been dealt with by condition as per recent Board decisions. They also disagree with the PA's view that insufficient information was provided on the existing level of fast food outlets/ takeaways in the shopping centre and take the opportunity to reiterate that there are 3 no. currently in the centre and argue that the nature and extent of the centre is such that it can accommodate the proposal without leading to an over proliferation of same.
- 9.2.11. Having regard to the site's 'Local Centre' mixed-use zoning and having visited the site and inspected its surroundings in order to assess the cumulative effect of fast food/ take-away outlets in the area, I do not consider that there is an excessive proliferation of such outlets in the Castle Mill Shopping Centre or in the immediate locality as envisaged under Objective DMSO96. Furthermore, I am of the view that there remains an appropriate mix of land uses at ground floor level within the designated local centre which provides for a range of shops and services including grocery stores, convenience/ specialist/ discount retailers, a barbershop, a cultural centre, a photography studio, a medical centre and pharmacy, a restaurant and a public house – with Dunnes Stores being the anchor unit.
- 9.2.12. In respect to location of vents/ other external services which could impact on adjoining amenities in terms of noise/ smell/ visual impact etc., I note that permission was previously secured for the change of use of the unit from apartments to use/ operation as a café with external seating; that no third party submissions or observations were received on the file; and, that no comments were raised by the PA's Environmental

Health Officer. On this basis, I consider that the detail on the unit's vents and services can be dealt with by condition with a further condition attached to prohibit any amplified music/ sound from the premises in order to further safeguard neighbouring amenities.

- 9.2.13. The matter of the operational hours of the facility has already been addressed in Section 9.2.5 of this report.

Conclusion

- 9.2.14. Having regard to the location in a designated local centre, where fast food outlets and takeaways are permitted in principle, and in a shopping centre development where there is not already an excessive proliferation of such uses, I consider that the proposal, whose hours and venting/ servicing can be controlled by condition, would not give rise to a material contravention of Objective DMSO96 of the FDP.

9.3. Signage

- 9.3.1. The PA's third reason for refusal cites issues with the character of the unauthorised externally illuminated fascia/ shopfront sign on the unit's southern elevation and states that it is not in keeping with the character and external appearance of Block C. On this basis it was determined to be injurious to the visual/ residential amenities of the area.

- 9.3.2. The grounds of appeal note that, in considering their response to this issue submitted as part of the FI, the PA determined that their proposal was acceptable. On this basis, they question why the PA did not address the matter by condition.

- 9.3.3. Having considered the information on file, I am of the view that the fascia signage on the south elevation which is proposed for retention is out of character with the building and is also not of a sufficient visual quality given the unit's prominent corner location on a junction at the entrance to the Castle Mill shopping centre. I also consider that its external illuminance, coupled with the late night opening of the unit, makes it unduly visually prominent and is likely to impact on the residential and visual amenities of the adjoining apartments through light spillage and visual intrusion. On this basis, together with the reasoning set out under Sections 9.2.1 and 9.2.6 of this report, I recommend to the Board that if they are minded to grant permission a condition be attached to omit this signage.

- 9.3.4. I further note that the applicant has not applied for permission to retain the unit's window decals or the round projecting sign on the side (east) elevation which, I note

from the information of file, does not have the benefit of planning permission. The applicant agreed during the FI process to remove the round projecting sign and I consider it reasonable that a condition be attached to ensure that it is removed. I also would have concerns about the existing decals on each of the unit's windows which are currently obscuring the unit's glazing and creating dead frontage which is negatively impacting on the safety and visual amenity of the streetscape. The decals do not appear, from the information on file or from the site's planning history, to have the benefit of planning permission. In order to address this issue, if the Board are minded to permit the proposal, I recommend that a condition is attached to require the removal of the decals to address the proposal's compliance with DMSO9 (Prevent the Use of Film/ Screening in Shopfront Windows) and to ensure that no further unauthorised signage is erected without the benefit of planning permission.

10.0 AA Screening

- 10.1. I have considered the proposal for retention permission in respect of Unit 19, Castle Mill Shopping Centre, Balbriggan, Co. Dublin in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 10.2. The subject site is located in an established mixed-use area and on serviced lands. It is also located approx. 1.5km from the nearest European Site (North-West Irish Sea SPA (Site Code 004236)).
- 10.3. The proposed development to be retained comprises of the change of use from retail to fast food takeaway together with the retention of fascia signage.
- 10.4. No nature conservation concerns were raised in the planning appeal.
- 10.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
 - The minor/ de minimus nature of the proposed development to be retained.
 - The location-distance from the nearest European Site and lack of connections.
 - Taking into account the findings of the AA screening assessment by the PA.

10.6. I conclude that on the basis of objective information, the proposed development to be retained would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

10.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

11.0 Recommendation

I recommend a GRANT of retention permission subject to the following conditions.

12.0 Reasons and Considerations

Having regard to the existing mixed-use nature of the building within which the proposal to be retained is located, to the site's urban location and to its 'LC – Local Centre' zoning, the objective for which is to 'To Protect, provide for and/or improve local centre facilities', together with the planning policies, objectives and development standards of the Fingal Development Plan 2023-2029 and specifically Objectives DMSO96 and DMSO97, it is considered that subject to compliance with the conditions set out below, the proposed development to be retained is an acceptable form of development at this location and would not seriously injure the amenities of adjoining properties, and would therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1.	The development shall be retained in accordance with the plans and particulars submitted with the planning application except as may be otherwise required by the following conditions. Reason: To clarify the plans and particulars for which permission is granted.
2.	The fast food outlet/ takeaway shall not operate outside the hours of 3.30pm – 12am. Reason: In the interest of public health and to protect neighbouring residential amenity.
3.	The proposed development shall be amended as follows: (a) Externally illuminated fascia/ shopfront sign on the unit's southern elevation shall be removed.

	<p>(b) The round projecting sign at ground floor level of the east elevation shall be omitted.</p> <p>(b) Existing decals on each and all of the unit's external windows and doors shall be removed.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of orderly development and visual amenity.</p>
4.	<p>This permission does not include any advertising or signage, save as may be allowed under exempted development under the relevant legislation.</p> <p>Reason: To protect visual and neighbouring amenities, and to clarify the extent of the permission.</p>
5.	<p>Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 15 mins and the specific noise shall be measured at LAeq.T 15min.</p> <p>Reason: To protect the amenity of neighbouring residential units.</p>
6.	<p>The developer shall control odour emissions from the premises in accordance with measures [including vents/ extract duct details] which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of public health and to protect the amenities of the area.</p>

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.

Emma Gosnell

Planning Inspector

15th April 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	321601-25		
Proposed Development Summary	Retention: Change of use from retail to fast food takeaway.		
Development Address	Unit 19, Castle Mill Shopping Centre, Balbriggan, Co. Dublin, K32 CC98.		
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	
		No	✓
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	✓		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____