



An  
Bord  
Pleanála

## Inspector's Report

### ABP-322079-25

#### Development

Change of use of unit 6 from retail warehouse to open comparison retail and amalgamate the unit into unit 5 (Dunnes Stores). Access by the general public to the proposed amalgamated unit would be via the existing Dunnes Stores access in unit 5. All works associated with the proposed development including the removal of the internal dividing wall.

#### Location

Units 5 & 6, Limerick One Shopping Park, Childers Road, Limerick.

#### Planning Authority

Limerick City and County Council

#### Planning Authority Reg. Ref.

24476

#### Applicant

Better Value Unlimited Company

#### Type of Application

Permission

#### Planning Authority Decision

Refuse permission

#### Type of Appeal

First Party

#### Appellant

Better Value Unlimited Company

**Observers**

None

**Date of Site Inspection**

23<sup>rd</sup> of May 2025

**Inspector**

Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located approximately 2.5km to the east of Limerick City Centre in the Limerick One Shopping Park. It contains a variety of retail uses, including a Dunnes Store, Boots, Mountain Warehouse, Next, Petstop and Harry Corry Interiors. There is also a fitness club located within the main building which contains a swimming pool. The shopping park is served by a large surface car park.
- 1.2. There is a KFC restaurant and a Costa Coffee, both located within standalone buildings to the south-west side of the shopping park. There are two vehicular accesses serving the shopping park. There is a signalised junction into the scheme from Childers Road to the west and a second vehicular entrance from Bloodmill Road to the north.
- 1.3. The appeal site comprises Unit 5 which contains Dunnes Stores and Unit 6 which is currently vacant and which directly adjoins Unit 5 to the north. The site has a stated area of 0.6593 hectares.

## **2.0 Proposed Development**

- 2.1. Permission is sought for change of use of unit 6 from retail warehouse to open comparison retail and amalgamate the unit into unit 5 (Dunnes Stores). Access by the general public to the proposed amalgamated unit would be via the existing Dunnes Stores access in unit 5. All works associated with the proposed development including the removal of the internal dividing wall.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority in an order dated 18<sup>th</sup> of January 2025 refused permission. The reason for refusal states;
  1. The proposed change of use from retail warehouse to open comparison retail, would materially contravene the Retail Warehousing land use zoning objective of the Limerick Development Plan (2022-2028) as well as objective ECON O2 Limerick Suburbs Retail and the Limerick City and County Council Retail

### **3.2. Planning Authority Reports**

- 3.2.1. Planning Report – The report of the Planning Officer concluded that the proposal is contrary to the Retail Warehousing zoning objective and would therefore materially contravene the Limerick Development Plan 2022-2028. It was considered that the proposal would result in the creation of a significant amount of additional floorspace with limited control over what type of retail would be permitted within the shop. It was concluded that the creation of additional floorspace had not been justified and that it would harm the vitality and viability of Limerick City Centre. Permission was refused on that basis.
- 3.2.2. Other Technical Reports
- 3.2.3. Environment Section – no objections
- 3.2.4. Fire Officer – no objections

### **3.3. Prescribed Bodies**

- None

### **3.4. Third Party Observations**

- 3.4.1. The Planning Authority did not receive any submissions/observations in relation to the planning application.

## **4.0 Planning History**

- 4.1.1. Reg. Ref. 03/770181 - Permission was granted in 2003 for a retail park development comprising a convenience and comparison goods store (gross floor area 8,302 sqm); 6 no. retail warehouse units and 1 no. ancillary garden centre with a combined gross floor area of 10,423 sqm; 2 no. comparison goods outlets (gross floor area of 3,716 sqm); 1 no. leisure and fitness centre incorporating leisure and ancillary uses at ground floor (2,090 sqm) and retail sports goods at first floor (2,090sqm); 2 no. restaurants (not 'drive thru'); 1 no. petrol filling station and associated forecourt shop;

vehicular access from Childer's Road; 1,090 no. car parking spaces, landscaping and all associated development and site works on a site of 7.69ha.

4.1.2. Reg. Ref. 04/770506 - Permission was granted for internal revision to existing retail warehouse unit to include mezzanine floor of 570.7sq m and rearrangement of existing doors at rear of Unit 6.

4.1.3. Reg. Ref. 04/770533 - Permission was granted for new illuminated external sign to Unit 6.

#### Adjacent

4.1.4. Reg. Ref. 21/1501 & ABP 313315-22 – Permission was sought for modifications to KFC restaurant and construction of a new single storey drive thru restaurant/café, net reduction of 109 car parking spaces, signage and ancillary works. A split decision was issued. Permission was granted by the Board for modifications to the existing KFC restaurant located in the southern car park and minor enhancements to the main internal site access road in the central area of the car park to enhance the priority afforded to traffic entering the Limerick One Shopping Park from the Childers Road. Permission was refused by the Board for a new single storey restaurant and drive thru on lands zoned Retail Warehousing in the Limerick Development Plan 2022-2028. Permission was refused for two reasons the first referred to the zoning objective. It stated, “....The proposed use is identified as use which is generally not permitted on such zoned lands. Having regard to the existence of three units within the wider complex which are identified as offering restaurant/café facilities which include takeaway facilities, it is concluded that a grant of permission in this instance would contravene the zoning objective afforded to this area of the site and would be contrary to the Objectives of the current Limerick City and County Council Development Plan 2022-2028.” The second refusal referred to the proposed development giving priority to car infrastructure over more sustainable transport methods.

4.1.5. Reg. Ref. 19/992 & ABP 306623-20 – First party appeal against a condition. The Board decided to amend condition no. 2 of the permission which was granted for the removal of the existing mezzanine level and the subdivision of Unit 2 into 2 no. separate retail units.

- 4.1.6. Reg. Ref. 06/770220 - Permission was refused for the retention of an internal mezzanine floor for storage at Unit 2.

## **5.0 Policy Context**

### **5.1. Retail Planning Guidelines - 2012**

- 5.1.1. The guidelines provide a framework for regional and Local Authorities in preparation of policies and County Development Plans, to allow Planning Authorities assess planning applications and to assist developers and retailers in formulating development proposals. The guidelines outline five key policy objectives as follows:

- Ensure retail development is plan-led;
- Promotion of City/Town Centre vitality through a sequential approach to planning;
- Secure competitiveness in the retail sector through the enabling of quality development in suitable locations;
- Facilitate the shift towards easier access to retail via public transport, cycling and walking and
- Delivering quality urban design.

### **5.2. Limerick Development Plan 2022 - 2028**

- 5.2.1. The site at Limerick One Shopping Centre, Childers Road Limerick is located on lands zoned Local Centre and Retail Warehousing. Unit 5 (Dunnes Stores) is zoned Local Centre. Unit 6 is zoned Retail Warehousing.
- 5.2.2. 'Local Centre' zoning stated Objective: To protect and provide local centre facilities to serve the needs of new/existing neighbourhoods and residential areas.
- 5.2.3. Purpose: To provide a mix of community and commercial neighbourhood facilities to primarily serve the immediate needs of the local working and residential population and complement, rather than compete with the City Centre. A mix of appropriate convenience retail, commercial, community, childcare and medical facilities, residential and recreational development of a local scale will be considered. Larger



scale office and residential development will be considered in new developments where public transport is available. The retail scale and type will be controlled to prevent negative impacts on the retail function of Limerick City Centre at the top of the hierarchy. A materially broader range of comparison goods than currently exists shall not be allowed in order to avoid further competition with the City Centre. Any proposal for retail development shall comply with the Retail Strategy for the Limerick Shannon Metropolitan Area and County Limerick.

- 5.2.4. 'Retail Warehousing' zoning stated Objective: To provide for retail warehouse development.
- 5.2.5. Purpose: To enable the development of a data centre campus consisting of multiple structures and associated power generating infrastructure as necessary, subject to compliance with all relevant planning criteria. Any proposed development shall adopt sustainable practices in terms of building design, materials, construction and operation. Any planning application shall include a landscaping plan incorporating dense trees to the site boundaries. General Enterprise and Employment uses will not be permitted in the Data Centre zone.
- 5.2.6. Chapter 5 – refers to A Strong Economy
- 5.2.7. Objective ECON 02 – Limerick Suburbs Retail: It is an objective of the Council to ensure proposals which would undermine the vitality and viability of Limerick City Centre will not be permitted. The sequential approach to retail development set out in the Retail Planning – Guidelines for Planning Authorities, 2012 will be enforced, in the interests of supporting the City Centre at the top of the retail hierarchy. Any retail development in the District or Local Centres or Retail Warehousing zone shall comply with the Retail Strategy.
- 5.2.8. Objective ECON 05 – Local/Neighbourhood Centres: It is an objective of the Council to: (a) Only consider the enlargement of existing Local/Neighbourhood Centre retail sites where it can be demonstrated that it serves a substantial residential catchment within walking distance of the centre and has a tangible urban renewal benefit for the community. Suitable floor space areas of new convenience food stores in these locations are considered to be up to 1,800m<sup>2</sup> of net retail space. (b) Promote the development of new neighbourhood centres at Mungret, Ballysimon and Old Cork Road to serve a growing population within their catchment. (c) Require all proposed

retail developments in Local/ Neighbourhood Centres to demonstrate compliance with the floor space capacity requirements set out in the Retail Strategy. A retail impact assessment shall be carried out for all developments in excess of 1,000 m<sup>2</sup>.

(d) Promote improved pedestrian accessibility, permeability and safety within any proposed development works.

### **5.3. Limerick City and County Council Retail Strategy for Limerick - Retail Strategy for Limerick-Shannon Metropolitan Area and County Limerick 2022-2028**

5.3.1. Table 2.4 refers to Limerick-Shannon Metropolitan Area Retail Hierarchy

### **5.4. Natural Heritage Designations**

5.4.1. Lower River Shannon Special Area of Conservation (Site Code 002165) is located circa 1.3km north of the subject site.

5.4.2. River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077) is located circa 2.6km west of the subject site.

### **5.5. EIA Screening**

5.5.1. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of the report.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A first party appeal has been submitted by Tony Bamford Planning on behalf of the applicant Better Value Unlimited Company. The issues raised are as follows:

- The development relates to a proposal to change the use of Unit 6 (formerly trading as Lifestyle Sports) with a total gross floor area of 935sq m including a mezzanine of 247sq m from Retail Warehouse to "open comparison retail" (non-bulky and bulky goods retail) and the amalgamation of Unit 6 into Unit 5 Dunnes Stores

- Dunnes Stores located in Unit 5 opened in 2005 at Limerick One Shopping Park. It has played an important role in servicing the basic food and non-food shopping needs of the area for twenty years. It is noted in that time there have been no substantive improvements made to the store or its general offer.
- The business has been evaluating the store with a view to a series of improvements to its overall offer. The purpose of the current application is to create a modest area of additional comparison floor space required to improve the layout of the store's fashion and homeware departments. It is highlighted that the extension of the floor area would not result in the inclusion of new products but rather improve how goods are displayed. The purpose of the refurbishment includes wider aisles for easier movement and increased space between clothing racks.
- It is stated that the proposal also ties in with its online strategy in compliance with the Council's own Development Plan objectives contained in the Limerick Retail Strategy. LCC18-Support retailers in developing online service offer, consumer delivery strategies, collection/distribution hubs and click and collect capacity.
- It is set out that the proposal to increase the comparison net sales area by 645sq m will not change the shop's primary function as a food shop destination, in line with its Local Centre status, serving a catchment equivalent to a 10 minute walking area. It is stated that Dunnes does not currently operate to the scale it has permission for under the parent permission Reg. 03/770181. 2,694sq m of convenience floor space was permitted and the current convenience trading area is 2,478sqm. 2,508sq m of comparison floor space was permitted and the current comparison trading area is 2,447sq m. It is stated that the store is under trading by 277sq m as permitted.
- Unit 6 is currently vacant. It was previously occupied by "Lifestyle Sports" which is a non-bulky sports and sports fashion retailer. Therefore, the unit was previously occupied by a non-bulky comparison retail use. The "Lifestyle Sports" broadened the range and diversity of non-bulky comparison goods at Limerick One Shopping Park. The amalgamation of Unit 6 into Dunnes Stores

will not increase the diversity of retail provision but rather consolidate Dunnes Stores local centre status.

- The development provides for the reuse of an existing vacant unit within the urban area in compliance with the policy of Compact Growth espoused in the National Planning Framework and CAP 24.
- The increase in net sales area is 645sq m. This would equate to a potential gross turnover of €45 million in 2026 based on figures used in Table 6.13 of the Limerick Retail Strategy 2021. The unit was previously occupied by Lifestyle Sports the potential turnover in 2026 would therefore be similar to the previous store which occupied the unit.
- It is argued that the proposal would not be expected to materially change shopping patterns and therefore without the potential for material change to shopping patterns retail impact does not arise as a planning consideration.
- The permission was refused for the following reason; The proposed change of use from retail warehouse to open comparison retail, would materially contravene the Retail Warehousing land use zoning objective of the Limerick Development Plan (2022-2028) as well as objective ECON O2 Limerick Suburbs Retail and the Limerick City and County Council Retail Strategy for Limerick - Shannon Metropolitan Area and County Limerick 2022-2028 (2022).
- In relation to the matter of material contravention it is noted that the reason for refusal does not permit “comparison” of any scale within the “Retail Warehouse” zone. Objective ECON2 seeks to ensure proposals do not undermine the vitality and viability of the City Centre.
- The Council considers that the proposal materially breaches both of these aspects of the Development Plan. It is also stated in the refusal that the development would contravene the County Retail Strategy.
- It is submitted that the Board can grant permission in this circumstance based on Section 37(2) of the Planning and Development Act 2000 (as amended) where “there are conflicting objectives in the development plan or the

objectives are not clearly stated, insofar as the proposed development is concerned (Section 37(2)(b)(ii)).

- The 'LC' zoning objective allows for expansion of local centres which is in contrast and conflicting with the 'Retail Warehouse' zoning objective and objective 'ECON2'.
- It is argued that the conflict and lack of clarity arises within the specific and unique context of this case. Dunnes is solely located within the 'LC' zoning and is surrounded by the 'Retail Warehouse' zoning on all sides. Open comparison is not allowed at any scale in 'Retail Warehouse' zoned lands. The 'LC' zoning objective does allow for the expansion of such centres.
- The objective does not say that the expansion must be confined to the geographic area of the 'LC' zoning. It is submitted that the range of goods will not be broader and that Dunnes Stores will not introduce a substantial number of new related lines.
- In relation to Objective ECON5 (Local and Neighbourhood Centres) it states 'Only consider the enlargement of existing Local/Neighbourhood Centre retail sites where it can be demonstrated that it serves a substantial residential catchment within walking distance of the centre and has a tangible urban renewal benefit for the community. Suitable floor space areas of new convenience food stores in these locations are considered to be up to 1,800m<sup>2</sup> of net retail space.
- It is submitted that the site serves a substantial residential catchment within walking distance of the centre and that the proposal would provide a tangible urban renewal benefit for the community. It is within a 1km walking radius of the site there is a resident population of nearly 10,000 people. It is highlighted that section 5.7.3 of the Development Plan expressly directs that "new retail floor area in the suburbs should incorporate the redevelopment of vacant commercial units. The proposal accords with this.
- In relation to the Limerick Retail Strategy 2021 – Childer's Retail Park is referred to as a modern retail warehouse scheme providing multiple retail units many of which sell comparison goods. Dunnes Stores is the main

anchor of the retail park. Boots, Sports Direct, Next, Lifestyle Sports, The Range and Harry Corry Interiors are all located on site. There are food and beverage outlets occupying units within the car park.

- The Strategy requires that (1) Consider limited expansion of the retail parks if the proposed development does not have adverse impact on Limerick City Centre. (2) Maintain vitality and viability of these retail centres
- In terms of Retail Impact Assessment it will be required for significant retail development where due to its scale and/or location it may impact on the vitality and viability of centres. Significant retail development constitutes development proposals for both comparison and convenience type development of – greater than 1,000sq m net floor space outside Limerick City Centre (within MASP), Shannon and Newcastle West – Greater than 500m<sup>2</sup> in all other settlements – or where Limerick City and County Council considers the development may impact on the vitality and viability of the City or Town Centre.
- It is highlighted that the development is well below the 1,000sq m threshold therefore a RIA is not required. Given the scale of the development and the fact that Unit 6 is already in long established retail use and was used for the sale of non-bulky retail goods, it will not impact on the vitality and viability of the city centre. It is submitted that no RIA should be required.
- As retail is already an established use in the centre and because the proposed development is unlikely to generate additional car movements, a Traffic and Transport Assessment is not and was not required. It falls below the 1,000sq m threshold.
- Section 7.4.5 of the Limerick Retail Strategy 2021 refers to local shops, it states that local shops play a vital role in catering for the daily needs of nearby residents or those passing by. Primarily convenience outlets, local shops provide a readily accessible service for basic goods, often for the less mobile members of communities. The planned delivery of such local shops should be encouraged in large or growing residential catchments. Such development should be designed to a high standard and be easily accessible to all members of society.

- Section 7.4.7 notes the important role of local centres. It states ‘small towns, villages and local centres play an important role in the retail hierarchy fulfilling the everyday needs of the communities they serve. Retail development should be focused in the centre, or edge of centres, of these small towns and villages and should complement the existing retail provision. They should be also located in areas of high accessibility to the area they serve.
- Dunnes Stores in the “Local Centre” proposed development is an edge of centre location as Unit 6 is physically connected to Unit 5 Dunnes Stores. It is submitted that overall, the development accords with the County Retail Strategy.
- In relation to objective ECON2 the core of the objective is to ensure proposals do not undermine the vitality and viability of Limerick City Centre.
- In relation to the sequential approach section 7.4.1 notes, “All applications for retail developments at edge of centre locations (i.e. outside of the defined core retail areas) will be subject to the sequential test. The 2012 Retail Planning Guidelines has formulated the order of priority for retail development, which is outlined below.”
- Objective ECON 5 allows for the expansion of Local Centres.
- The Dunnes Stores unit serves a substantial residential catchment which is within walking distance and growing, with substantial potential for higher levels of comparison spending. The proposed development will not have an adverse impact on the diverse high order role of the City Centre. It is submitted that the amalgamation of Unit 6 into Unit 5 (a designated Local Centre) is appropriate in spatial terms. Unit 6 is located on the edge of the defined “local centre”. It is considered that the Sequential Approach should not apply in this instance.
- The expansion of the ‘Local Centre’ in this case can only be made to the Dunnes Stores unit as it is the only unit within the defined centre. The development is compliant with objectives ‘LC’ and ECON 5 and the content of the County Retail Strategy in particular the policy on Local Shops and Local Centres. It is submitted that there are sufficient conflicts between objectives

they lack clarity in so far as the proposed development is concerned to allow the Board to grant permission in this case.

- Separate to the case made and without prejudice to the position set out in the appeal above the first party submit that the Board could grant permission with reference to the Development Plan's non-conforming use objective.
- With reference to the scale of its retail offer the existing Dunnes Stores unit does not conform to the 'Local Centre' zoning objective because its convenience floorspace is already above the 1,800sq m limit. Also, its legally established comparison floorspace area is well above the 150sq m allowable under the zoning matrix.
- It is argued that the Dunnes Stores unit does not align with the technical definition of a 'Local Centre' in the Retail Planning Guidelines 2012. 'Local Centres or Neighbourhood Centres are defined in the Retail Planning Guidelines as small groups of shops typically comprising a newsagent, small supermarket/general grocery store, sub-post office and other small shops of a local nature serving a small localised catchment population.'
- The non-conforming use policy in the Limerick Development Plan on page 390 states, 'Non-conforming uses which do not conform to the zoning objective for the area in which they are located where legally established, extensions or improvements to these uses shall be considered on their merits on a case by case basis, where they do not adversely affect the amenities of properties in the vicinity and are not prejudicial to proper planning and sustainable development.'
- A similar "non-conforming use" objective in the Fingal County Development Plan 2023 is cited. Fingal County Council granted a substantial warehouse facility, in the rural area of Lusk, Co. Dublin. Section 11.5 of the Fingal County Development Plan 2023 states, "there are uses which do not conform to the zoning objective of the area. These are uses which were in existence on 1<sup>st</sup> October 1964, or which have valid planning permissions, or which are unauthorised 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 ZO3- states, ‘Non-Conforming Uses: Generally, permit reasonable intensification of extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria.
- Under F24A/0365E Fingal County Council granted permission for the construction of an extension circa 2,469sq m gross floor area to an existing warehouse circa 3,750sq m gross floor area.
- In assessing the development the Fingal County Council found that like a previous extension in 1996 granted with the benefit of an earlier non-conforming use objective that a large extension of 2,469sq m (compared to an existing warehouse of 3,750sq m GFA) would be reasonable. It was based on the wider planning considerations such as residential amenity, landscape impact etc being acceptable.
- In relation to the non-conforming use objective in the Limerick Development Plan, it is argued that the development does not impact on amenities of properties, as Unit 6’s use for retail is established. By substantively complying with the ‘LC’ zoning objective, ECON 2 and ECON 5 (both of which allow for expansion of local centres) having no impact on the City Centre and being well under the capacity figures for new comparison floorspace as set out in the County Retail Strategy, the development does not prejudice proper planning and sustainable development. It is concluded that within the context of Limerick’s non-conforming use policy, the Board could grant planning permission.

## **6.2. Planning Authority Response**

- None received

## **7.0 Assessment**

Having examined the application details and all other documents on file, including all of the submissions received in relation to the appeal, the reports of the local

authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issue in this appeal to be considered is as follows:

- Compliance with Development Plan policy

## **7.1. Compliance with Development Plan policy**

7.1.1. The Planning Authority refused permission for one reason which states;

1. The proposed change of use from retail warehouse to open comparison retail, would materially contravene the Retail Warehousing land use zoning objective of the Limerick Development Plan (2022-2028) as well as objective ECON O2 Limerick Suburbs Retail and the Limerick City and County Council Retail Strategy for Limerick - Shannon Metropolitan Area and County Limerick 2022-2028 (2022).

7.1.2. The site comprises two units within Limerick One Shopping Park. Unit 5 which contains Dunnes Stores and Unit 6 a currently vacant unit. Unit 5 Dunnes Stores is zoned 'LC' - 'Local Centre' with the stated objective to protect and provide local centre facilities to serve the needs of new/existing neighbourhoods and residential areas. Unit 6 is zoned 'RW' - 'Retail Warehousing' with the stated objective to provide for retail warehouse development.

7.1.3. The proposed development entails the change of use of unit 6 which has an area of circa 935sq m from retail warehouse to open comparison retail and to amalgamate the unit into Dunnes Stores in unit 5. Chapter 12 of the Limerick Development Plan 2022-2028 refers to Land Use Zoning Strategy and the Land Use Matrix sets out the types of development which are either generally permitted, open for consideration or generally not permitted. In relation to the 'Retail Warehousing' zoning objective retail comparison  $<1,800\text{m}^2$  is generally not permitted as is retail comparison  $>1,800\text{m}^2$  and retail convenience for both  $<1,800\text{m}^2$  and  $>1,800\text{m}^2$ . Accordingly, the proposed change of use of unit 6 to retail comparison is generally not permitted. The Planning Authority concluded that the proposed change of use would materially contravene the Retail Warehousing land use zoning objective. This breach of the zoning objective would not represent a minor breach. Accordingly, I would concur with this

on the basis that it is clear from the Land Use Matrix that the proposed use would breach the subject land use zoning objective materially.

- 7.1.4. It is argued in the grounds of appeal that the proposed contravention of the zoning should be considered on the basis of conflicting objectives. It is stated in the appeal that the 'Local Centre' zoning objective allows for expansion of local centres which is in contrast and conflicting with the 'Retail Warehouse' zoning objective and objective 'ECON2'. The first party consider that there is a specific and unique context in respect of the case because the Dunnes Stores is solely located within the 'LC' zoning and is surrounded by the 'Retail Warehouse' zoning on all sides. They highlighted that the open comparison category is limited in respect of the 'Retail Warehouse' zoned lands and that the 'Local Centre' zoning objective does allow for the expansion of such centres. It is also stated in the grounds of appeal that the 'Local Centre' zoning objective does not say that the expansion must be confined to the geographic area of the 'LC' zoning.
- 7.1.5. In relation to this matter, I would not concur with the argument put forward on the basis that the Limerick One Shopping Park was pre-existing prior to the adoption of the current Limerick Development Plan. The land use zoning as set out in the current Development Plan and referring to the Limerick One Shopping Park is very specific in providing a differentiation between the location where retail convenience and retail comparison is permitted, i.e. the 'Local Centre' zoning within the confines of Unit 6 containing Dunnes Stores and the location where 'Retail Warehouse' uses are permitted, i.e. on the lands surrounding the 'Local Centre' zoning within the Limerick One Shopping Park. Therefore, I would not accept the point made in the appeal that the extension of the local centre should be considered appropriate within the 'Retail Warehouse' zone on the basis that the 'Local Centre' zoning objective does not specifically state that the expansion of the local centre must be confined to the geographic area of the 'LC' zoning.
- 7.1.6. It is submitted in the appeal that the proposed change of use should be considered on the basis of other factors including that the development provides for the reuse of an existing vacant unit within the urban area and that the range of goods will not be broader than existing within Dunnes Stores. I note these points. In relation to the matter of the vacancy of unit 6, I noted that the previous use of the unit appeared to be for the sale of products relating to Halloween. However, I would note that unit 6

would appear to be vacant following that use. Regarding the statement that the range of goods will not be broader than existing within Dunnes Stores, I would note this point but an increase floor area would inevitably provide more choice and increase footfall and draw more customers to an increased provision of comparison products.

- 7.1.7. The appeal discusses Objective ECON O2 of the Limerick City & County Council Development Plan 2022-2028. It refers to Limerick Suburbs Retail and states that it is an objective of the Council to ensure proposals which would undermine the vitality and viability of Limerick City Centre will not be permitted. The sequential approach to retail development set out in the Retail Planning – Guidelines for Planning Authorities, 2012 will be enforced, in the interests of supporting the City Centre at the top of the retail hierarchy. Any retail development in the District or Local Centres or Retail Warehousing zone shall comply with the Retail Strategy. The Council in their assessment of the proposed development noted that the Retail Strategy identified the Childer's Road Retail Park as performing well and with low levels of vacancy and that limited expansion can be considered but if not, the proposed development would have adverse impacts on Limerick City Centre. The Council consider that the proposed development would result in the creation of a significant amount of additional floorspace and that there would be limited control over what type of retailing would be permitted in the area of the shop where the change of use is proposed. The Council concluded that they were not satisfied that the significant amount of additional floorspace had been justified. I would note the concerns of the Council in respect of the level of additional floorspace which would be provided to the Dunnes Stores and that there would be limited control over the use of the retail space in terms of the type of retailing. The first party have put forward the case the existing store is under retailing in respect of the floor area permitted under the parent permission Reg. Ref. 03/770181. While, I would note the point I also note that the parent permission refers to a period over twenty years ago and that the zoning provisions under the current development plan clearly provides for specific retail uses within the two zoning objectives which refer to Limerick One Shopping Park and it does not provide for a significant increase in comparison floor space at this location. Accordingly, I would concur with the Council that the proposal would be

contrary to the Objective ECON O2 of the Limerick City & County Council Development Plan 2022-2028 which refers to Limerick Suburbs Retail.

- 7.1.8. The appeal discusses Objective ECON O5 of the Development Plan. It refers to Local/Neighbourhood Centres and states that 'it is an objective of the Council to: a) Only consider the enlargement of existing Local/Neighbourhood Centre retail sites where it can be demonstrated that it serves a substantial residential catchment within walking distance of the centre and has a tangible urban renewal benefit for the community. Suitable floor space areas of new convenience food stores in these locations are considered to be up to 1,800m<sup>2</sup> of net retail space. It is put forward in the appeal that the proposal would be in accordance with Objective ECON O5 on the basis that it allows for the expansion of Local Centres. While I would note the point, the objective refers specifically to convenience food stores and does not refer to comparison floor space. Given that the 'Local Centre' zoning objective does not provide for a significant comparison floor space provision with both retail comparison </1,800m<sup>2</sup> and retail comparison >/1,800m<sup>2</sup> generally not permitted under the land use zoning matrix, I do not accept the appellants argument in respect of Objective ECON O5 of the Development Plan.
- 7.1.9. In relation to the matter of a Retail Impact Assessment (RIA), I would concur with the first party that an RIA would not be required on the basis that the net floor area proposed is 654sq m and it is therefore below the 1,000sq m threshold which is set out under Objective ECON O5 of the Development Plan which refers to Local/Neighbourhood Centres.
- 7.1.10. Regarding Limerick City and County Council Retail Strategy for Limerick - Shannon Metropolitan Area and County Limerick 2022-2028 (2022), it is set out in the reason for refusal issued by the Council that the proposal would be contrary to the strategy. In response to the matter the first party stated that the subject Dunnes Stores is in the "Local Centre" and that the proposed development is an edge of centre location as Unit 6 is physically connected to Unit 5 Dunnes Stores. It is submitted that overall, the development accords with the County Retail Strategy. The Retail Strategy for Limerick – Shannon Metropolitan Area and County Limerick is set out in Volume 6 of the Development Plan. The retail hierarchy aligns with the settlement hierarchy of the Plan. The purpose of the retail hierarchy is to indicate the level and form of retailing activity appropriate to the various centres across Limerick, to protect each

centre's vitality and viability, while allowing each centre to perform its role within the hierarchy. The hierarchy emphasises the primacy of the City Centre in accordance with the objectives of the MASP. Accordingly, while I would note the point made in the appeal in terms of the location of unit 6 adjoining the local centre as discussed previously in the report the proposed use of unit 6 for comparison floor space would materially contravene the 'Retail Warehousing' zoning objective and as such would be contrary to the overall strategic zoning of lands for specific types of retailing provision in line with the land use and floor requirements established under the retail strategy and the retail hierarchy.

7.1.11. The grounds of appeal also request that the Board consider the proposed change of use in relation to 'non-conforming' uses. Section 12.4 of the Limerick Development Plan refers to Land Use Zoning Matrix and Non-conforming uses are defined as 'uses which do not conform to the zoning objective for the area in which they are located where legally established, extensions or improvements to these uses shall be considered on their merits on a case by case basis, where they do not adversely affect the amenities of properties in the vicinity and are not prejudicial to proper planning and sustainable development.'

7.1.12. In relation to the matter of a "non-conforming use" an example of an application for an extension to a warehouse in the rural area of Lusk in Fingal was cited in the appeal. While I note it is an example of a 'non-conforming' use where an extension was permitted, it is not directly relevant to the current appeal. It is argued in the appeal that the proposal should be considered on the basis of a 'non-conforming' use because the Dunnes Stores unit does not conform to the 'Local Centre' zoning objective as its convenience floorspace is already above the 1,800sq m limit and its legally established comparison floorspace area is well above the 150sq m allowable under the zoning matrix. It is also put forward in the appeal that the development does not impact on amenities of properties, as the use of Unit 6 for retail is established. Regarding these matters I would consider that while the floor area of the convenience store is 2,478sq m as stated in the appeal the 'Local Centre' zoning provides that retail convenience of up to 1,800sq m is open for consideration. The existing comparison floorspace area is circa 2,447sq m as stated in the appeal. The permission for the convenience and comparison retailing within the Limerick One Shopping was granted under the parent permission Reg. Ref. 03/770181 which was

subject to the provisions of the Development Plan in force at the time. The zoning provisions in place under the current plan clearly do not provide for a significant level of comparison retail floor space within 'Local Centre' zoning and under the 'Retail Warehouse' zoning it is generally not permitted. Therefore, the permission of a further 645sq m of net comparison floor space would be contrary to both zoning objectives and I do not accept the appellant's argument in relation to 'non-conforming' use.

- 7.1.13. The Board will note that the refusal reason of the decision issued by Limerick City and County Council states that the proposed development would materially contravene the Retail Warehousing land use zoning objective of the Limerick Development Plan (2022-2028) as well as objective ECON O2 Limerick Suburbs Retail and the Limerick City and County Council Retail Strategy for Limerick - Shannon Metropolitan Area and County Limerick 2022-2028 (2022). Accordingly, one or more of the criteria as set out in Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended) applies, and must be met should the Board be disposed to a favourable decision in this instance.
- 7.1.14. Having considered the file, and the provisions of the Plans, as outlined above, I do not believe that one or more of the criteria are met. In my opinion the proposed development is not of strategic or national importance, the objectives in the development plan are clearly stated, and I am not aware of any other comparable applications that have been granted since the adoption of the Limerick County Development Plan 2022-2028.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000, as amended.
- 8.1.2. Lower River Shannon Special Area of Conservation (Site Code 002165) is located circa 1.3km north of the subject site. River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077) is located circa 2.6km west of the subject site.
- 8.1.3. The proposed development comprises a change of use unit 6 from retail warehouse to open comparison retail and amalgamate the unit into unit 5 (Dunnes Stores). The

area proposed for change of use has a floor area of 935sq m, all on a 0.6593 hectare site, located on serviced lands within Limerick One Shopping Park, Childers Road, Limerick.

8.1.4. No streams/watercourses are identified on site.

8.1.5. 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 nature of the works proposed which are located on fully serviced lands
- The distance to the nearest European sites, and the weak indirect connections to the European sites
- Taking into account the screening report by the Planning Authority

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

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

## **9.0 Water Framework Directive**

9.1.1. The subject site is located within Limerick One Shopping Park, Childers Road, Limerick. It is situated circa 2.5km to the east of Limerick City. The River Shannon is located to the north and west of the site. It is situated circa 1.3km from the site at the closest point to the north. The site is located on the ground waterbody Limerick City East (Code IE\_Sh\_G\_138).

9.1.2. The proposed development comprises a change of use of an existing retail warehouse unit to open comparison retail and the amalgamation of the unit into unit 5 (Dunnes Stores). The area proposed for change of use has a floor area of 935sq m, all on a 0.6593 hectare site, located on serviced lands within Limerick One Shopping Park. The grounds of appeal have not raised the matter of the Water Framework Directive.



- 9.1.3. I have assessed the proposed change of use of 935sq m within an existing retail warehouse unit to comparison retail and the amalgamation of the unit into unit 5 (Dunnes Stores) and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.
- 9.1.4. 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 surface and/or groundwater waterbodies either qualitatively or quantitatively.
- 9.1.5. The reason for this conclusion is as follows:
- 9.1.6. The proposal comprises a change of use of 935sq m within an existing retail warehouse unit to comparison retail and the amalgamation of the unit into unit 5 (Dunnes Stores). The proposal would not increase the footprint of the building and therefore would not result in an increase in surface water run-off. The proposal would not result in the generation of any additional surface water within the building.

### **Conclusion**

- 9.1.7. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## **10.0 Recommendation**

- 10.1. I recommend that permission be refused for the following reasons and considerations.

## **11.0 Reasons and Considerations**

1. The proposed change of use from retail warehouse to open comparison retail within Unit 6 of Limerick One Shopping Park is located on lands zoned Retail

Warehousing in the current Limerick City & County Council Development Plan 2022-2028, the objective of which is 'to provide for retail warehouse development'. The proposed use is identified as a use which is generally not permitted on such zoned lands. It is concluded that a grant of permission in this instance would materially contravene the zoning objective afforded to this area of the site and would also be contrary to the Objective ECON O2 of the Limerick City & County Council Development Plan 2022-2028 which refers to Limerick Suburbs Retail and which specifies that it is an objective of the Council to ensure proposals which would undermine the vitality and viability of Limerick City Centre will not be permitted. Furthermore, the proposed development would be contrary to the provisions of Limerick City and County Council Retail Strategy for Limerick - Shannon Metropolitan Area and County Limerick 2022-2028 (2022). The development would, therefore, be contrary to the proper planning and sustainable development of the area as a whole.

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.

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Siobhan Carroll  
Planning Inspector

10<sup>th</sup> of June 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	322079-25
<b>Proposed Development Summary</b>	Change of use of unit 6 from retail warehouse to open comparison retail and amalgamate the unit into unit 5 (Dunnes Stores)
<b>Development Address</b>	Units 5 & 6 Limerick One Shopping Park, Childers Road, Limerick.
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means:	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input checked="" type="checkbox"/> No, No further action required.

<ul style="list-style-type: none"> <li>- The execution of construction works or of other installations or schemes,</li> <li>- Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)</li> </ul>	
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	<p><b>If a development is not a Class –</b></p> <p>Include this paragraph under EIA Screening (A separate heading) in the Inspectors Report.  <i>The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.</i></p> <p><b>NB: Regardless of the submission of Schedule 7A information, if the development is not a Class of Development for the purposes of the EIA Directive, no Screening required.</b></p> <p><i>DELETE THIS PARAGRAPH</i></p>
<input type="checkbox"/> Yes, the proposed development is of a Class	<b>State the Class and state the relevant threshold</b>

<p>and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p><b>State the Class and state the relevant threshold</b></p>

<p><b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b></p>	
<p>Yes <input type="checkbox"/></p>	<p><b>Screening Determination required (Complete Form 3)</b></p>
<p>No <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_