



An
Coimisiún
Pleanála

Inspector's Report

ABP-322692-25

Development	Permission for retention of both unit 1 and unit 2 as a shop for the retail sale of goods including ancillary staff offices and canteen along with all shopfront signage.
Location	Tipperary Town Retail Park, Bohercrowe, Limerick Road, Tipperary, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	25/60212
Applicant(s)	Corajio, trading as Mr. Price
Type of Application	Retention Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Carajio, trading as Mr. Price
Observer(s)	None
Date of Site Inspection	25 th July 2025
Inspector	Fergal Ó Bric

1.0 Site Location and Description

- 1.1 The subject site is located approximately 1.4 kilometres north-west of the Main Street in Tipperary town and within the townland of Bohercrowe. The site is accessed off a spur road which connects to the N24 at the Limerick Road roundabout located approximately 220 metres north-east of the subject site. Tipperary Town shopping centre is located north of the appeal site and accessed off the same roundabout. The spur road is a cul de sac serving the appeal site, the shopping centre to the north and another commercial unit immediately south of the appeal site. The road terminates at the commercial unit.
- 1.2 The appeal site is occupied by a retail warehouse building comprising 8 units with partial glazing on the ground and first floors and a glazed canopy over the frontage of each unit. The building has an underground car park and a surface car park to the front (east) of the units. Two of the units (Units 1 & 2) specifically relate to this appeal and have been amalgamated into one larger unit operating as 'Mr Price'. The remaining six retail warehouse units within the retail park are vacant.
- 1.3 Opposite the site to the east is a large greenfield site. There is a footpath and street lighting extending along both sides of the adjoining spur road serving the appeal premises. The site is separated from the shopping centre to the north by an open space area and a car park. The Limerick-Waterford railway line extends to the west (rear) of the appeal site.
- 1.4 The subject site has a stated area of 1.72 hectares.

2.0 Proposed Development

- 2.1 The development, the subject of this appeal, seeks permission for the retention of retail warehouse units 1 and 2 as a shop for the retail sale of goods, including ancillary staff offices and canteen along with all shopfront signage.
- 2.2 The plans submitted indicate the ground floor of units 1 and 2 are amalgamated and have a stated total floor area of 1,501.99 m². The ground floor layout comprises rows of shelving displays in between customer aisles, in addition to a staff canteen, toilets and staff office accommodation. The first-floor mezzanine level of both units has a floor area of 206.5m².(as stated within the appeal submission).

- 2.3 A total of 6 signs have been affixed to the building predominantly along the eastern frontage elevation of units 1 & 2- (signs A-E) and are non-illuminated. The larger of the signs, sign 'F' is positioned flush to the side (north) of the building facing the adjacent shopping centre at first floor level.
- 2.4 The Planning Authority (PA) conducted an Appropriate Assessment (AA) screening exercise and concluded 'the development is not likely to have significant effects...the proposals can be screened out, and Appropriate Assessment is not required'.
- 2.5 The Planning Authority (PA) conducted an Environmental Impact Assessment (EIA) screening exercise and concluded 'there is no real likelihood of significant effects on the environment and EIA is not required'.

3.0 **Planning Authority Decision**

3.1 Decision

On 12th May 2025, Tipperary County Council refused permission for retention of the development, on the following grounds:

1. Policy DM 1 (Development Standards) of the Tipperary Town and Environs Development Plan (TTEDP) 2013, as varied, states that it is the policy of the Council to require all development to comply with the relevant standards identified in the Development Management Section of the plan.

The application site is zoned for "light industrial" land use under the TTEDP 2013, as varied, the land use zoning objective of which is "To provide for Light Industry and employment and related uses". Under the land use zoning matrix, a shop and supermarket are explicitly not permitted on this land use zone. The development for which retention permission is sought constitutes an unacceptable land use at this location, and would if permitted, materially contravene the TTEDP 2013, as varied. Furthermore, the proposal if permitted, would set an undesirable precedent for other similar development at this location and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the retail development for which retention permission is sought, circa 1 kilometre from the edge of Tipperary Town

Centre, on an out of centre site, it is considered that the proposed development would conflict with national policy, as set out in the “Retail Planning Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in April 2012, which favours the siting of new retail development in town centres or edge of centre locations. The development if permitted would also conflict with Policy TC1 (Enhancing the quality of the Town Centre) and Policy TC 2 (Retail Strategy for Tipperary Town) of the TTEDP 2013, as varied, which requires new retail development to be located in the town centre area. Accordingly, the retail unit for which retention permission is sought, in conjunction with existing retail development in the vicinity, having regard to the existing vacancy levels and trading patterns in the town, would have an adverse cumulative impact on the vitality and viability of Tipperary Town Centre. The proposed development would, therefore, be contrary to both national and local policies and would be contrary to the proper planning and sustainable development of the area.

3.2 Planning Authority Reports

3.2.1 Planning Reports

The planner’s report dated 29th April 2025, references the light industrial land use zoning objective pertaining to the site asset out within the Tipperary Town and Environs Development Plan (TTEDP) 2013 and the history of planning permissions pertaining to the site which included specific planning conditions restricting the use of the units to retail warehousing and the sale of bulky household goods and that no subdivision/amalgamation of the units should occur without a grant of planning permission issued by the PA or the Board.

The planner was satisfied that the existing shop trading as a ‘Mr. Price’ store, primarily comprised comparison goods (excluding bulky goods) with an element of convenience goods.

The Planner considered the site to be an out-of-town centre site, and the development would be contrary to the provisions of the Retail Planning Guidelines and to the land use zoning objective and the retailing policy objectives within the

Tipperary Town and Environs Development Plan 2013 and would have an adverse impact on the vitality and viability of Tipperary town centre. There was no servicing, parking, environmental or visual concerns in relation to the development.

3.2.2 Other Technical Reports

None received.

3.2.3 Prescribed Bodies

None received.

3.2.4 Third Party Observations

None received

4.0 Planning History

On subject site:

PA ref. 23/60198-Permission for retention of change of use of unit 1 and 2 from warehouse to shop was refused by the PA and this decision was upheld by the Board under Board reference number 317320-23. The Boards' reason for refusal related to the development being contrary to the primary land use zoning objective for this out of town centre site, which seeks to provide for Light Industry and employment and related uses and the failure of the applicant to carry out a sequential test to justify the acceptability of the development outside the designated town centre of Tipperary, that the development would detract from the vitality and viability of the town centre, and materially contravene Policies TC1, TC2 and ECON 1 of the Tipperary Town and Environs Development Plan 2013 and Policies 4-1 and 7-4 of the Tipperary County Development Plan 2022. The development to be

retained would establish an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

Within the broader retail warehouse park

P.A Ref: 17/600917: Planning permission was granted in 2017 to Corajio, for the change of use of 8 no. retail/warehousing units to office use. This permission was not implemented.

P.A Ref: 08/581801: Retention permission was granted to Flancare Ltd. for an ESB Sub-Station and adjoining switch room building to the rear of the existing building.

P.A Ref: 08/581792: Retention permission was granted to Flancare Ltd., for modifications to planning permission Ref. PD2/1758.

P.A Ref: 07/581758: Planning permission granted to Flancare Ltd., for modifications to the previously granted Ref.PD2/1696.

P.A Ref: 06/581696: Planning permission granted to Flancare Ltd. for 8 No. Retail Warehousing Units incl. staff areas, stockrooms, car parking and all associated site and infrastructure works. A number of conditions were attached to this permission and are of relevance to this appeal and include the following:

Condition 6 (a): use of the proposed development restricted to retail warehousing for the sale of bulky household goods including carpets, furniture and electrical goods and bulky DIY items in accordance with Section 80 and Annex 1 of the Retail Planning Guidelines for Planning Authorities published by the Department in 2005.

Condition 6 (b): intended business activity of units to be formally agreed with the Planning Authority prior to occupation.

Condition No. 41: the proposed retail warehouses were not to be constructed or subdivided into store sizes of less than 700 m² and no amalgamation of the individual retail warehouse units to occur without receiving a prior grant of planning permission from the Planning Authority or An Bord Pleanála.

Planning Enforcement:

P.A. Ref: TUD-21-150: Enforcement Notice (EN) issued 12/04/2023 for the material change of use of part of a building from retail warehousing to use as a shop for the

retail sale of goods and material change of use of part of a building from retail warehousing to use as storage associated with the retail unit and for the erection of signage to the exterior of the building. The PA state that the requirements of this EN were not complied with and this case is now before the courts.

5.0 Policy Context

5.1 Tipperary Town & Environs Plan Development Plan (TTEDP) 2013 (as varied)

The Core Strategy of the Tipperary County Development Plan (CDP) 2022, current Town Development Plans and LAPs will remain applicable until they are replaced with LAPs, in accordance with the framework and timeline as set out in Table 4.2 of the CDP. As such the Tipperary Town & Environs Development Plan (TTEDP) 2013 (as varied) is the current relevant plan.

The subject site is zoned Light Industry (LI) within the TTEDP 2013. The zoning objective for LI is to provide for light industry and employment related uses.

Relevant policies within the Plan include:

Policy TC 1: Enhancing the quality of the Town Centre:

It is a policy of the Council to strengthen the retail/commercial, residential and recreational functions of the town centre, retaining high value uses at ground floor level within the Primary Retail Area, to seek improvements to the visual quality of the town centre as part of new development and to facilitate the appropriate development of the town centre subject to compliance with the relevant development standards where applicable.

Policy TC 2: Retail Strategy for Tipperary Town:

It is the policy of the Council to encourage and facilitate the consolidation and enhancement of the retail function of the town centre and its role as a secondary service centre in the County Retail Hierarchy. In this regard the Council will implement the objectives of the South Tipperary County Retail Strategy 2010 and any review thereof, when assessing applications for new retail development.

Policy ECON 1: Zoning of land for Employment Uses:

It is the policy of the Planning Authority to ensure that sufficient lands are zoned to facilitate various types of employment generating industries at appropriate locations having particular regard to small start-up industries and new businesses requiring easy access to strategic route corridors.

Section 9: Development Management Guidelines

Policy DM 1: Development Standards:

It is the policy of the Council to require all development to comply with the relevant standards identified in the Development Management of the Tipperary Town and Environs Development Plan 2013-2019.

The Land Use Zoning Matrix lists the land-use activities referred to under each zoning objective. It indicates the acceptability or otherwise (in principle) of the specified land-uses in each zone.

5.2 Tipperary County Development Plan (CDP) 2022-2028

The Plan outlines a programme for the balanced and tiered growth for each of the county's settlements. Tipperary town lies within the third-tier settlement of the county's hierarchy and is classified as a District town. The retail function of district towns are as important sub-county roles, with good choice in convenience and comparison retail offer. Existing vacancy has been identified in dedicated retail warehouse parks and some shopping centres. There are established central areas with varying levels of retail vacancy and the strengthening of and environmental improvement of these will be a priority.

Volume 1-District Towns: Strategy for Growth

The District Towns will continue to perform an important role in the county by providing employment opportunities, high quality retail choice, regional transport services and community services for their hinterlands in line with their capacities for growth and expansion.

Relevant policies within the Plan include:

Policy 4-1: To support and facilitate the sustainable growth of the county's towns and villages as outlined in the Settlement Strategy Chapter 4, thereby promoting balanced development and competitiveness, and a network of viable and vibrant settlements to support the needs of local communities. New development will be considered in line with the following:

- (a) The provisions of the relevant Town Development Plan and LAPs as set out in Table 4.2: Framework of current Town Plans and Local Area Plans shall apply to new development in each of the towns and support the provisions of this Plan as set out in Section 4.3 Key Towns and 4.4 District Towns, until replaced by LAPs.
- (e) There shall be support for new development that will assist in the reversal of the decline of towns and villages, through the regeneration, reuse and redevelopment of existing buildings, spaces, brownfield and opportunity sites.

Chapter 7- Town Centre & Placemaking

Section 7.3 Retail Development-Encourages 'the location of new retail development in town centres where it is easily accessible by public transport, and on foot, is a key component of this policy approach'.

Table 7.1 Retail Hierarchy, Function and management.

In terms of the District Centres including Tipperary town: 'There are established central areas with varying levels of retail vacancy and the strengthening of and environmental improvement of these will be a priority. To support an appropriate range of retail choice to serve the needs of rural catchments and protect the vitality of the town centres. New convenience retailing will be only acceptable where there is a demonstrated need, and it will support the town centre. New retail warehousing may be facilitated, but only where it is demonstrated that there is a need for additional floor space and where it will support the town centre'.

Section 7.3.4 Retail Warehousing

‘The range of goods sold in retail warehouse parks will be controlled to protect the comparison-shopping function of town centres, with retail warehousing to be primarily devoted to bulky goods’.

Policy 7-4: In line with the Retail Hierarchy, to promote a competitive and healthy environment for retailing, providing for consumer choice and maintaining the vitality and vibrancy of town centres in line with the Guidelines for Planning Authorities on Retail Planning, (DECLG 2012) and any amendment thereof. The following relevant considerations will apply:

a) New retail development will be encouraged to locate within/adjoining the primary retail areas and/or on lands identified for town centre/village centre purposes, and in existing vacant retail units in the central area. Retail proposals outside of these locations will be required to comply with the ‘sequential approach’ and to demonstrate that the proposal will not adversely impact on the vitality and viability of the town centre.

c) New retail warehouse floor space shall generally be located in or adjacent to town centre areas and within easy walking distance of the primary retail area. Proposals for new retail floorspace in other locations must demonstrate compliance with the ‘sequential approach’ and demonstrate to the satisfaction of the planning authority that there is a need for retail warehouse floorspace in accordance with Retail Planning Guidelines for Planning Authorities, (DECLG 2012) or any amendment thereof.

Objective 7-A: Support the ‘Town Centre First’ approach, through the following: (a) Support and deliver on the ‘Town Centre First’ policy approach for Irish Towns to enable the development and coordination of regeneration and revitalisation of towns.

Objective 7-D: (a) In line with the ‘Town Centre First’ Policy, and a new integrated National Health Check, undertake Town Centre Health Checks of the Key Towns, District Towns and Local Towns on an annual basis.

(b) Identify vacancy reduction targets in LAPs and support the provisions of the ‘Town Centre First’ policy approach in the active reuse of vacant properties in town centres.

5.3 Tipperary Town Collaborative Health Check (TTCHC) Report 2022

The CTCHC research focused on a number of key areas including land use and vacancy in the town centre. The land use survey examined the use of ground floor space in the core town centre which included over 400 premises and provides a baseline for the town going forward. The most recent survey was conducted in January 2022 and updates a previous CTCHC land use survey from October 2021. The survey used the same methodology which enables an informed comparison to be made between both surveys.

The results from both surveys indicated there were a total of 73 vacant non-residential units of which 43 properties (31.2%) were vacant ground floor retail units¹. There were a total of 2 storage and warehousing vacant units, and 1 vacant industrial unit within the town centre in 2022.

5.4 Section 28 Ministerial Guidelines

Retail Planning Guidelines for Planning Authorities, 2012

Key policy objectives within the Guidelines include ensuring that retail development is plan-led and promotes city/town centre vitality through a sequential approach to development.

The guidelines consider that retail warehouse operations do not fit easily into town centres given their size requirements, need for good car parking and ease of servicing. It indicates that generally planned retail parks do not have any material impact on town centres provided that the range of goods is limited to bulky household goods or goods generally sold in bulk.

Where the range of goods sold from retail warehouse parks extend to the type of non-bulky durables which is more typically retailed from town centres then there is much more potential for an adverse impact on a nearby town centre. Where permission is sought for a floorspace in excess of 100m², the sequential approach to retail development shall apply.

¹ Ground floor vacancy is calculated using land use categories: convenience, comparison and retail services.

Definitions within the guidelines include:

Out-of-centre - A location that is clearly separate from a town centre but within the urban area, including programmed extensions to the urban area in approved or adopted development plans.

District centre - Provides a range of retail and non-retail service functions (e.g. banks, post office, local offices, restaurants, public houses, community and cultural facilities) for the community at a level consistent with the function of that centre in the core strategy. They can be purpose built as in new or expanding suburbs, or traditional district centres in large cities or towns.

Convenience goods - Includes food, alcoholic and non-alcoholic beverages.

Comparison goods - includes clothing and footwear, furniture, books, medical and pharmaceutical products, bulky goods.

Bulky goods - Goods generally sold from retail warehouses where DIY goods or goods such as flatpack furniture are of such a size that they would normally be taken away by car and not be manageable by customers travelling by foot, cycle, or bus, or that large floor areas would be required to display them e.g., furniture in room sets, or not large individually, but part of a collective purchase which would be bulky e.g., wallpaper, paint.

5.5 Natural Heritage Designations

The closest Natura 2000 sites to the subject site are the Lower River Suir SAC (site code:002137) located approximately 6.2 kilometres south of the appeal site and the Moanour Mountain SAC (site code: 002257), located approximately 6.8km to the southwest of the site.

5.6 EIA Preliminary Screening

Please see Appendix 1 at the end of this report. 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. An EIA, or EIA screening determination, therefore, is not required.

5.7 Water Framework Directive-Screening

The appeal site is located approximately 6.2 kilometres north of the nearest boundary of the Lower River Suir.

The proposed development relates to the use of two retail warehouse units for the retail sale of goods including ancillary staff offices and canteen along with all shopfront signage. The detailed development description is set out within Section 2.0 of my report above.

Potential for impact upon water quality was not raised by the Planning Authority. The appeal site is an urban brownfield one which is fully serviced in that there is access to the public watermains and foul sewer network. The appeal site is located within Flood Zone C as per the flood mapping set out within the current Tipperary County Development Plan 2022 where a low risk of flooding is identified.

I have assessed the planning documentation and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface and ground water bodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, in relation to surface water management, I am satisfied that it can be eliminated from further assessment, as the applicant has demonstrated that there is no conceivable risk to the Lower Reiver Suir SAC in terms of its water quality.

The reason for this conclusion is as follows:

- The location of the subject site, removed from the nearest boundary of the the Lower River Suir SAC.
- The absence of hydrological connections to the River Suir.

Conclusion

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.

6.0 The Appeal

Grounds of Appeal

6.1 A first party appeal was received from HRA Planning and Environmental Consultants on behalf of the applicants, The following are the main issues raised within the appeal statement.

Principle of Development

- Recent studies have confirmed that Tipperary town is experiencing significant retail leakage.
- It is acknowledged that the retail core and town centre of Tipperary town is not healthy, with a lot of vacant units.
- However, there are no suitable, available or viable premises in the town centre to accommodate the development proposal. This is clearly rationalised in Section 5.0 of the Retail Impact statement (RIS) submitted as part of the planning documentation.
- In 2015, the applicants purchased the Tipperary town Retail Park which has remained vacant since its construction in 2007.
- The site and its immediate environs are dominated by retail uses including the Tipperary Town shopping centre (Containing Dunnes Stores) located approximately 150 metres north of the appeal site, Dealz (390 metres from the subject site) and Tesco (620 metres from the site).
- Synergies including shared car trips can be facilitated through the co-location of retail development together in an area.
- The land is currently unzoned as the Tipperary Town and Environs Development Plan (TTEDP) 2013 has expired and no longer has legal effect.

- RPO10 in the RSES for the Eastern and Midlands region encourages compact growth.
 - Policy 7-4 of the current Tipperary County Development Plan (TCDP) 2022 promotes development consistent with the retail hierarchy. Tipperary town is classified as a 'District town'.
 - The delivery of a retail use on a site previously permitted for retail warehouse use in Tipperary town, adjoining an existing Dunnes Stores and in proximity to an existing Tesco store complies with the spirit, intention and legislative policies and provisions of national retail planning policy from a practical and pragmatic perspective, there is no other alternative site available to the applicant.
 - The applicants have submitted legal opinion from their legal representatives in relation to the status of the TTEDP 2013 and the light industrial land use zoning that applies to the subject site within that Development Plan.
 - The PA are of the opinion that the development would materially contravene the light use industrial zoning objective afforded to the site under the TTEDP 2013. The applicant submits that the land is unzoned as the TTEDP has now expired. Accordingly, a material contravention of the TTEDP cannot arise.
 - The decision to refuse permission on this basis is unlawful and invalid.
 - The PA did not reference Section 11 C (b) of the Planning and Development Act 2000 (as amended) which requires a Development Plan to be reviewed or that a new Development Plan is made within a specific timescale. A Development Plan is made under Section 12 of the Act, whereas an LAP is made under Section 20 of the Act.
 - An LAP can be extended for a period of up to five years under Section 19 (1) (d) of the Act. There is no equivalent for a Development Plan.
 - The previously granted planning permission on the site has established the retail nature of the land, deemed to be suitable for bulky goods.
- Notwithstanding the alternative retail format currently proposed, the proposed development would assist in reversing the continued decline of the site and result in the effective utilisation of an existing vacant building.

Retail Type

- The applicants state that 41% of their goods are classified as convenience and 58% as comparison and that 14% of the comparison goods are stated to be classified as bulky.
- The breakdown of the floor area by category is that 615.8 square metres (sq. m) is for convenience goods, 705.9 sq. m. for comparison goods and 210 sq. m. for bulky goods.

Retail location

- The typical shopping behaviour of a (Mr Price) customer is such that he/she will continue to use other retail facilities such as traditional supermarkets and established shopping centres.
- Residents from the surrounding areas shopping in Dunnes Stores and the shopping centre can visit the store on foot, promoting sustainable travel in the locality by limiting the need to use car transport for every journey.
- With no suitable alternative premises available and having invested significantly in the retail warehouse park since 2015 when the applicants purchased the site and again in 2017 when a change of use to office use was sought (and permitted) in the hope of attracting a number of new employers to the town, the applicants commenced trading from the subject site.
- There is no disputing that the development proposal is in an out-of-town centre location.
- As per national, regional and local planning policy, if there are no viable and available sites for the development as proposed, then an out-of-town centre location must be considered.
- A detailed sequential approach has been taken as per Section 5 in the Retail Impact Statement (RIS) submitted as part of the planning documentation.
- The proposed development inherently complies with the provisions of the Retail Planning Guidelines (RPG's) 2012 and satisfies the five national objectives as set out within the document.
- The site is located 1.2 kilometres (approximately a ten-minute walk) from the defined retail core (Main Street) of Tipperary town with footpaths and public lighting ensuring connectivity and accessibility.

- The Planners Report considers that some of the sites identified in the applicants' sequential assessment (contained in the RIS) could be suitable for the proposed development. However, the Planners report fails to specify which of the alternative sites may be suitable, except for the site at number 30 Bank Place.
- The planners report seeks to substantiate its argument with reference to Section 2.5 of the RPG's which require that retailers should be flexible in their operational requirements and adapt their formats to suitable sites in the town centre. The Planner fails to acknowledge that flexibility and realism are required on the part of both retail developers and PA's to ensure that retailing is developed in the most appropriate locations.
- Section 5.1 of the RIS sets out the retailers' requirements and rationalises the need for a standardised retail format.
- The RIS erroneously references the need for a significant area of storage given the bulk purchasing of branded goods. In fact, the retail model is based on a 'just in time' delivery system and, therefore, requires minimal storage.
- A large floor plate is required to accommodate the variety of retail offering (between 10-15,000 items are displayed in the shop at any one time).
- Although not classified as a bulky retailer, the nature of some of Mr. Price's products is such that car transport is necessary to move the product from the shop floor to the customers destination.
- The RIS determined that there is a significant lack of large modern floorplates within the defined retail core, and this restricts the provision of new retail uses within the town centre as set out within the RIS and its assessment of alternative sites.
- The thirty alternative sites/premises identified in Figure 2.0 of the RIS are generally small in area with a substantial proportion being under 100 square metres (sq. m) in area and a few units within the 100-500 sq. m category, however, these units are also too small. The potential for amalgamation of units was considered, but no opportunity to amalgamate adjoining properties to the required size was available.

- Many of the larger units within the town centre have their floorspace spanning across two storey's which makes their layout and configuration not easily adaptable to retail use.
- No 30 Bank Place was considered by the applicants, and an offer was placed on the property by them. Correspondence has been submitted stating that the property would not be made available to a convenience retail operator and thus does not constitute a realistic alternative.
- The PA stated that the proposals did not satisfy the sequential test, notwithstanding correspondence submitted from a local estate agent stating that there are no suitable premises in Tipperary town to accommodate the development proposals.
- The subject site is the most suitable location available within Tipperary town to accommodate the development proposals.
- The subject site is the most suitable location available within Tipperary town to cater for the development and would utilise an existing building which has been vacant for sixteen years prior to the current occupancy commencing operations. Having regard to the established retail activity in the immediate area, the potential to walk/cycle to the site from the town centre, being the only site identified as being capable of accommodating the development proposals, proximity to other commercial/retail uses, the specific nature of the blended retail offering which can result in bulk buying resulting in car borne trips necessitating on site car parking.

6.2 Planning Authority Response

None received.

6.3 Observations

None received.

7.0 Assessment

- 7.1 I have examined the file and the planning history, considered and assessed local and national policies and guidance, the first party appeal submission and having

inspected the site. I am satisfied that the main issues raised adequately identify the key potential impacts and can be dealt with under the following headings:

- Principle of Development.
- Retail Impact; and
- Appropriate Assessment.

7.2 Principle of Development

7.2.1 The proposal seeks permission for retention of retail warehouse units 1 and 2 to use as a shop for the retail sale of goods including ancillary staff offices and canteen along with all shopfront signage. The site is located in an out-of-town centre location on lands zoned for 'light industrial' use under the provisions of the Tipperary Town & Environs Development Plan (TTEDP) 2013,

As per the zoning matrix 'Permitted' uses under this land use zoning include: 'car park, cash and carry wholesale, enterprise and employment centre, light industrial, motor sales outlet, offices other than ancillary offices, recreational buildings, service garage and warehousing,

'Open for consideration' uses include: Community facility, creche/nursery, funeral home, garden centre, household fuel depot, general industrial, petrol station, retail warehouse, veterinary surgery.

Shop (neighbourhood) and supermarket (circa 1,500m²) are not permitted on light industrial zoned lands. The zoning matrix does not, therefore, permit a 'shop' use on light industrial zoned lands.

7.2.2 I note the content of the planning appeal submission made by the applicants and the accompanying legal opinion which sets out that in their opinion the Tipperary Town and Environs Development Plan (TTEDP) 2013 has expired and, therefore, is invalid. They also are of the opinion that since the expiration of the TTEDP, the 'light industrial' land use zoning objectives within the Plan no longer applies to these lands or any other lands within Tipperary town. Accordingly, a material contravention of the

TTEDP cannot arise. The applicants contend that the decision to refuse permission on this basis is unlawful and invalid.

7.2.3 The applicants reference specific provisions within the Planning and Development Act 2000, (as amended) specifically Section 11 (1) of the Planning and Development Act 2000 (as amended) which requires a Development Plan to be reviewed or that a new Development Plan is made within a specific timescale. A Development Plan is made under Section 12 of the Act, whereas an LAP is made under Section 20 of the Act. There is provision for an LAP to be extended for a period of up to five years under Section 19 (1) (d) of the Act. There is no equivalent provision for extending the lifetime of a Development Plan set out within the legislation. I would concur with the applicants in this instance, that the TTEDP has expired and that reliance on policy objectives and land use zoning objectives within that Development Plan which was adopted in 2013 cannot be relied upon. Therefore, a material contravention of a Development Plan which has exceeded its lifespan is not possible. On this basis, I consider that the first reason for refusal in relation to contravening the 'light industrial' land use zoning objective and parts of the second refusal reason for refusal pertaining to the site and the specific retail policies and objectives, namely TC1 and TC2 as set out within the PA decision should be set aside as they no longer have relevance to the proposals.

7.2.4 Condition 6 of planning permission (P.A Ref: 06/581696) restricted the use of the development to retail warehousing and for the sale of bulky household goods only including carpets, furniture and electrical goods and bulky DIY items in accordance with Section 80 and Annex 1 of the Retail Planning Guidelines for Planning Authorities published by the Department in 2005. I note from the applicants appeal submission that they outline the amount of floorspace that is dedicated to convenience goods, stated to be 41% and comparison goods at 58% and that bulky goods only comprise 14% of their floorplate. From my site inspection the type of products sold in the appeal premises comprise a mixture of comparison and convenience type goods and I noted that the vast majority of the goods on display would not fall within the definition of bulky goods as defined in the Retail Planning

Guidelines as outlined in Section 5.3 above, and as specified in condition 6 of P.A Ref: 06/581696.

- 7.2.5 The applicants acknowledge within their appeal submission that many of the goods on sale within their premises, by virtue of their non bulky nature can be transported on foot, by bicycle or by bus and, therefore, would not necessitate a car to transport them to their destination. I would accept that a small and limited number of goods on offer within the store, for example the large pet food bags would require car transport, but the vast majority of goods on offer would not specifically necessitate a car to transport them, by virtue of their non-bulky nature. Therefore, I consider that the current proposal would materially contravene planning condition number 6 of planning reference 06/581696 in relation to the sale of bulky household goods and bulky DIY items as defined within the Retail Planning Guidelines 2012. Based on the information submitted by the applicants and on my own observations within the premises, I consider that the majority of the goods on offer could be stocked and sold within a smaller town centre commercial unit. Therefore, the current proposals could adversely impact the vitality and viability of Tipperary town centre and would be contrary to Policy 7-4 and objective 7A within the Tipperary County Development Plan (TCDP) 2022 in relation to retail hierarchy and locating retail development within/adjoining the primary retail areas and demonstration that the retail proposal would not adversely impact the vitality and viability of the town centre and supporting the 'Town Centre First' approach.
- 7.2.6 It is important to have a plan led system which retains retail uses in the appropriate location to meet the needs of businesses and employers. Serviced sites close to, but not within the town centre, such as the subject site are, therefore, an important economic resource. I, therefore, consider the site is appropriately identified for the development of retail warehousing, specifically for the trading of bulky household goods with large units capable of providing uses not suitable or available for employment generating enterprises in the town centre, close to a national road

network, and where the activity or level of parking and deliveries would not result in a nuisance to residential amenity.

7.2.7 I do not concur with the applicant that an empty building is an indicator there is no potential interest from future occupiers to use the building. Notwithstanding that the applicants state that the retail warehouse units were vacant for a period of sixteen years prior to the current occupants commencing trading, I consider permission for the retention of unit numbers 1 & 2 for the sale of 'non-bulky retail convenience and comparison goods' would result in the loss of existing retail warehouse space that cannot be accommodated in the town centre and would be contrary to the provisions of the Tipperary Development Plan, specifically policies 7-1 and 7-4 and objective 7A and contrary to the provisions of the Retail Planning Guidelines (RPG,s 2012) in terms of retaining the vitality and viability of town centres and that non bulky goods should primarily be sold within town centre core retail areas, unless in exceptional circumstances. I acknowledge the applicants have submitted a Retail Impact Statement (RIS) where thirty alternative sites/premises were considered and all were deemed not suitable, available nor viable by the applicants. However, the retail policies and objectives within the current Tipperary County Development Plan (TCDP) 2022 stipulate that town centres remain as the primary focus for non-bulky convenience and comparison retailing and this remains as a core policy objective within the current Development Plan. I consider that to permit the retention of the non-bulky retail development within a retail warehouse park would fundamentally contravene these retailing policy objectives and adversely impact the vitality and viability of the Tipperary town centre, would establish an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

7.2.8 I note the provisions specifically set out within the Retail Planning Guidelines 2012 where the following is set out 'that generally planned retail parks do not have any material impact on town centres provided that the range of goods is limited to bulky household goods or goods generally sold in bulk. Where the range of goods sold from retail warehouse parks extends to the type of non-bulky durables which is more typically retailed from town centres then there is much more potential for an adverse impact on a nearby town centre'. Therefore, following on from the content of the Planning Report prepared by the Planning Authority and from my own observations

during my site inspection, it was noted that the vast majority of the goods available for sale within the appeal premises were of the non-bulky nature, and many comparison and convenience goods available which would be capable of being carried on foot, on a bicycle or within a car, which could easily be stored and stocked within a smaller town centre commercial premises. I consider that the sale of these non-bulky comparison and convenience goods, at this out of centre location has the potential to adversely impact the vibrancy and vitality of the town centre and, therefore, be contrary to the provisions of the 7-4 policy and 7A objective within the current Tipperary Development Plan 2022, and the provisions of the Retail Planning Guidelines, would establish an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

7.2.9 In conclusion, the retention of unit numbers 1 and 2 as a retail shop would, if permitted, contravene planning conditions numbers 6(a) and 41 of the original planning permission on the subject site under Planning reference 06/581696 which required that the uses on site would be restricted to the sale of bulky household goods including carpets, furniture and electrical goods and bulky DIY items in accordance with Section 80 and Annex 1 of the Retail Planning Guidelines for Planning Authorities published by the Department of Housing, Local Government and Heritage in 2005 and updated in 2012, that the retail warehouse units not be amalgamated or sub-divided in the absence of a prior grant of planning permission.

7.3 Retail Impact

7.3.1 The PA's second reason for refusal reason relates to the out-of-town location of the site and the failure of the applicant to provide a sequential approach or retail impact to demonstrate the development would not impact on the vitality and viability of the town centre. One of the key strategic objectives of the TTEDP is the development of a strong town centre and Policy 7-4 of the CDP seeks to promote healthy and competitive town centres, which includes prioritising and encouraging the reuse of existing vacant retail floorspace in the town centre in preference to proposals for new floor space on out-of-town centre sites, such as the subject site. As set out within Section 7.2 above, I accept that the retail policies referenced in the second refusal reason, namely TC1 and TC2 within the TTEDP 2013 are no longer valid in terms of assessing the current proposals. However, the retail hierarchy and policies as set out

within the current Tipperary County Development Plan (TCDP) 2022 are relevant and will be considered as part of this assessment.

- 7.3.2 The applicants acknowledge the appeal site has the benefit of a retail warehousing permission for the sale of bulky household goods and that their development proposal relates to a different type of retail development, largely of a non-bulky nature. A Retail Impact Assessment (RIA) has been submitted as part of the planning documentation where thirty different sites/premises were determined to be unavailable, not suitable or viable. From my observations of the retail core within Tipperary town, I noted a number of commercial premises vacant within the centre, however the applicants state that many of these units are not suitable by reason of their floor areas being below 500 sq. m, which is below the requirement for their floorplate, stated to be a minimum of 700 sq. m. The applicants also stated that they did not have information of the floor areas available within some of the thirty sites/premises considered. Therefore, I consider that there are lacunae within the information submitted as part of the consideration of alternatives, if the issue of floor areas has not been fully explored including the possibilities of amalgamation of adjoining units which the applicants have stated would not be possible as the floor areas are over two storeys and would not be suitable for their retailing format. Therefore, I consider that greater detail and consideration of alternatives would be required in order to present a more robust rationale for permitting the sale of non-bulky goods within retail warehouse units in excess of one kilometre removed from the town retail core.
- 7.3.3 The applicants reference other commercial retailers which are located in proximity to the appeal site. The applicants themselves acknowledge that Tesco store is located 620 metres closer to the retail core of the town than the subject site, Dealz are located 380 metres closer to the town retail core and Dunnes Stores are located approximately 150 metres closer to the town retail core than the subject site. In any event, each development must be considered on their individual planning merits.
- 7.3.4 Therefore, notwithstanding the submission of a Retail Impact Assessment (RIA) by the applicants as part of their planning documentation, and although I would concur with the applicants that a number of sites/premises they have identified as potential alternatives within the town centre are not of a large enough footprint to accommodate the proposed retail development and that some of the site's identified

were not available to the applicants. However, I consider that the applicant has failed to adequately justify the use of the site for the sale of non-bulky goods or adequately address the issue of compliance with planning conditions 6(a) and 41 of the original permission under planning reference 06/581696 in relation to the uses to relate to the sale of bulky household goods and in relation to the amalgamation of units on site in the absence of a prior grant of planning permission.

- 7.3.5 The rationale provided by the applicants solely relates to the non-suitability and/or the non-availability units/sites within the town centre and, therefore, the retention of the existing 'shop' use development at the subject site should be permitted. The applicants also state that the appeal building had been vacant for a period of sixteen years, that its continued vacancy would cause dereliction, the lack of available units in the town centre, the presence of the adjacent shopping centre, and the renewed interest in the remaining units since occupation of the two units by the applicant.
- 7.3.6 I acknowledge the appeal premises may have been vacant for some time however, I do not accept the applicant's reasoning that the use of these premises as a shop on an out-of-town site is acceptable based on the premises being vacant. Furthermore, when I visited the site, the building appeared structurally sound, and the site did not appear in a derelict condition.
- 7.3.7 I note from the most recent Tipperary Town Centre Health Check (conducted in 2022), which found that there was a total of 73 vacant non-residential units, including 43 vacant ground floor units, two vacant storage and warehousing units and a vacant industrial unit in the town centre. This survey found that 31% of the ground floor units within the town centre were vacant and, therefore, I consider it even more pertinent that the sequential approach is applied as the nature of the use is such, that it is more appropriate as a town centre use. The applicant states that the RIA considered thirty alternative sites, considerably less than the 43 vacant ground floor units identified in the Town health check study.
- 7.3.8 Therefore, the RIA would need to be reviewed and revised by the applicants to consider all of the vacant units identified in the town health check study, the vacant non-residential, storage, warehousing and industrial unit/sites and provide a robust and comprehensive appraisal of each unit/site, in terms of their floor areas, established/permitted uses, and why exactly a shop use as proposed, would not be

viable or suitable within those units/sites. I do not consider that the RIA submitted is sufficiently comprehensive or robust in terms of considering all potential alternatives within the town centre and if there is a possibility that they would be appropriate or suitable for the non-bulky retail use, the subject of this appeal. The fact that an applicant has purchased a particular unit would not provide sufficient justification to permit a non-bulky shop use with retail warehouse units which were specifically permitted for the purpose of the sale of household bulky goods.

7.3.9 The applicants state within their RIA that they have sought to operate in Tipperary Town for many years, but the reality is that sites to accommodate HGV deliveries required by a store such as 'Mr. Price' do not exist in the town centre. I would not concur with this aspect of the applicant's grounds of appeal. Whilst deliveries of goods can provide a challenge in a heritage town such as Tipperary town, the type of non-bulky goods sold in the applicant's shop and do not constitute bulky products such as furniture, carpets, white goods etc., that would require HGV delivery trucks on a regular basis. Furthermore, innovative approaches such as making deliveries outside peak hours, smarter travel policies, reducing the use of the car within town centres etc., is not an unusual practice in towns, which makes it accessible for goods deliveries to be made to shops within the town. The majority of the goods sold by the applicant are non-bulky items and are portable by customers travelling by foot, cycle or bus. I note the provisions of the Retail Planning Guidelines 2012 which sets out the following 'that generally planned retail parks do not have any material impact on town centres provided that the range of goods is limited to bulky household goods or goods generally sold in bulk. Where the range of goods sold from retail warehouse parks extends to the type of non-bulky durables which is more typically retailed from town centres then there is much more potential for an adverse impact on a nearby town centre'. I, therefore, consider the applicant has not justified the unsuitability or unavailability of existing premises within the town centre for this particular retail use, given the largely unbulky nature of the comparison and convenience goods sold by the applicant within the units within the subject site. This is evident from the photographic images provided by the Planning Authority as part of their planning report and as evident to me on the day of my site inspection.

7.3.10 Retail policy both at national and local level supports the maintenance and expansion of the retail offer in town centres as it serves the population of the

surrounding area and helps reduce the need to travel by car. Tipperary town is a district centre within the retail hierarchy of the County. It is experiencing significant commercial vacancy within the town centre and particularly at ground floor level as per the results of the town centre retail health check and the results within the RIA submitted by the applicants. As outlined previously the level of vacancy and dereliction within the town centre is very evident, and to permit the retail use of non-bulky convenience and comparison goods on an out-of-town centre site would further impact on the vitality and viability of the town centre. The Retail Planning Guidelines place a strong emphasis on the importance of a plan led system, and only in exceptional circumstances should out of town sites be considered and, only after the sequential approach has been applied.

- 7.3.11 If there is a general issue regarding the lack of demand for retail warehousing or office use floorspace in the appeal location, then the retail strategy for the county would have to be revisited and reviewed. A revised strategy would then inform policies as to the extent of land and floorspace where retail is permitted. The appropriate mechanism to carry out such an exercise is through the planning process set out in Part 2 of the Planning Act, rather than individual planning applications under Part 3.
- 7.3.12 Policy 7.4 within the current TCDP 2022 seeks 'to promote a competitive and healthy environment for retailing, providing for consumer choice and maintaining the vitality and vibrancy of town centres in line with the Guidelines for Planning Authorities on Retail Planning, (DECLG 2012) and objective 7A promotes the 'Town centre first' approach. I consider that the retention of the retail use within units 1 and 2, which were specifically permitted for the sale of bulky household goods in and outside of the designated retail core area, would adversely impact the vibrancy and vitality of Tipperary Town centre and would be contrary to policy 7.4 and objective 7A of the Plan, would establish an undesirable precedent and be contrary to the proper planning and sustainable development of the area.
- 7.3.13 In conclusion, in the absence of robust and comprehensive information regarding the retail impact of the proposed development on the town centre, and the failure of the applicant to address the issue of contravening the planning conditions 6(a) and 41 of the original planning permission pertaining to the retail warehouse units on site, which include units 1 and 2, the subject of the current retention proposals, I consider

that the applicants have failed to adequately justify the acceptability of the largely non-bulky retail development at this out of centre location, I consider the development would be contrary to both national and local retail planning policy and to the proper planning and development of the area.

8.0 AA Screening

- 8.1 I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The Lower River Suir SAC (site code:002137) is located approximately 6.2 kilometres south of the appeal site, and the Moanour Mountain SAC (site code: 002257), located approximately 6.8km to the southwest of the site. The development description was set out within Section 2 of the report above. The Planning Authority did not make reference to the potential for adverse impacts to arise upon Natura 2000 sites. The applicants did not submit an Appropriate Assessment (AA) Screening Report as part of their planning documentation. The PA conducted an AA screening exercise, referenced in Section 2.4 of this report above.
- 8.2 The nearest European sites to the appeal site are the Lower River Suir SAC and the Moanour Mountain SAC. I consider that the appeal site is not hydrologically/ecologically connected to either of these European sites, located south and south-west of the appeal site. There were no drainage ditches evident within the confines of the appeal site or along its boundaries. Therefore, I am satisfied that there is no apparent surface water hydrological link between the appeal site and these or any European site connected to the south-west or south of the subject site.
- 8.3 I am satisfied that the development relates to the retention of a change of use within an established and permitted retail warehouse development. Given that the site has no requirements for additional connections to the public piped water services that no adverse impacts on water quality, or the qualifying interests or conservation objectives of any European site would arise.
- 8.4 I consider that even in the unlikely event that the standard control measures should fail, an indirect hydrological link (via the underlying groundwater body) represents a

weak ecological connection. I consider this to be the case given the separation distance to the nearest SAC sites, the absence of suitable habitat on site to serve the particular protected species for foraging/feeding purposes. As such any pollutants from the site that should enter groundwater during the construction stage, via spillages into the surrounding drains, will be subject to dilution and dispersion within the groundwater body, rendering any significant impacts on water quality within the River Suir unlikely. This conclusion is supported within the Planning Authority's AA screening Report, which determined the following 'the development is not likely to have significant effects...the proposals can be screened out, Appropriate Assessment is not required'.

8.5 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 relatively modest scale of the change of use proposals, which would avail of existing connections to the public piped water services,
- The separation distance from the nearest European site and the lack of hydrological or ecological connectivity to any Natura 2000 site.
- The AA screening exercise conducted by the Planning Authority which concluded that either alone or in combination with other plans or projects, there would be no likely significant effects on any European sites

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

I recommend that permission for retention of the retail development is refused for the following reasons.

10.0 Reasons

1. Having regard to the provisions of the Tipperary County Development Plan (CDP) 2022 and the Retail Planning Guidelines 2012, and the nature and scale of the development, it is considered the development based on the documentation submitted, would be contrary to policy 7-4 and objective 7A in relation to the Retail hierarchy, maintaining the vibrancy and vitality of the town centre and supporting the 'Town centre first' approach. The development would also be inconsistent with the provisions of the Guidelines for Planning Authorities on Retail Planning, 2012, and that new retail development be encouraged to locate within/adjoining the primary retail areas or on lands identified for town centre purposes, the failure of the applicant to justify the acceptability of the largely non-bulky retail development outside the designated town centre of Tipperary and having regard to the level of vacancy within the town centre which could accommodate the sale of non-bulky comparison and convenience goods, many of which are stocked within units 1 and 2 within the subject site. It is considered that the retention of the retail development at this location removed from the retail core of Tipperary town could adversely impact the vitality and viability of the town centre, and materially contravene these planning conditions and Policy 7-4 and objective 7A of the current Tipperary County Development Plan CDP 2022 in relation to retail hierarchy and compliance with the Retail Planning Guidelines 2012, would establish an undesirable precedent and would, therefore, be contrary to the proper planning and development of the area.
2. The retention of the non-bulky good retail development within permitted retail warehouse units would materially contravene planning conditions numbers 6(a) in relation to the requirements for the sale of bulky household goods within the retail warehouse units and condition number 41 which precludes the sub-division of the retail warehouse units without a prior grant of planning permission as set out within the original planning permission on the site under planning reference 06/581696. Having regard to the level of vacancy within the town centre which could accommodate the sale of non-bulky comparison and convenience goods, many of which are stocked within units 1 and 2 within the subject site, it is considered the development could adversely impact the vitality and viability of the town centre, would establish an undesirable precedent and 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.

Fergal Ó Bric
Planning Inspectorate

19th day of September 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	322692-25		
Proposed Development Summary	Permission for the retention of retail warehouse unit numbers 1 and 2 as a shop for the retail sale of goods including ancillary staff offices and canteen along with all shopfront signage.		
Development Address	Tipperary Town Retail Park, Bohercrowe, Limerick Road, Tipperary, Co. Tipperary.		
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	x-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)?			
Yes	Tick/or leave blank		
No	Tick or leave blank	Change of use applications are not specified as being within a class of development within Parts 1 or 2, Schedule 5 of the Planning & Development Regulations 2001 (as amended).	x
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank		

No	Tick/or leave blank		X
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	Proposals relate to retention of retail warehouse unit numbers 1 and unit 2 as a shop for the retail sale of goods including ancillary staff offices and canteen along with all shopfront signage.	X

5. Has Schedule 7A information been submitted?		
No	Tick/or leave blank	X
Yes		

Inspector: _____ Date: _____