



An
Bord
Pleanála

Inspector's Report RL06F.RL3578

Question	Whether the amalgamation of 2 no. retail units within the internal layout of the shopping centre is or is not development or is or is not exempted development.
Location	Pavilions Shopping Centre, Swords, Co. Dublin
Declaration	
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FS5/011/17
Applicant for Declaration	IPUT PLC
Planning Authority Decision	Is not exempted development
Referral	
Referred by	IPUT PLC
Owner/ Occupier	IPUT PLC
Observer(s)	None
Date of Site Inspection	25 th October 2017
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The referral site comprises two adjoining retail units located within the Pavilions shopping centre in Swords, Co. Dublin. The two retail units, which are located at ground floor level of the shopping centre, are referred to as units G45 and G46 and have stated ground floor areas of 276 sq m and 409 sq m, respectively. Both units also include a mezzanine level area which is not accessible to the public, and which would appear to be utilised for storage or other ancillary uses. The stated floor area of the mezzanine levels within Units G45 and G46 is 103 sq m and 155 sq m, respectively.
- 1.2. Unit G45 is occupied by 'Gerard', a clothes shop, while unit G46 is occupied by 'Flying Tiger', which sells a wide variety of small products such as toys, stationery and decorative household items. I note that the referral states that unit G46 has been vacated by Tiger, although it was open and trading on the date of my site inspection.
- 1.3. The only public access to the two retail units is from the internal mall area within the shopping centre, although both units also feature external window displays fronting onto the Malahide Road with service doors to their storage areas. I note that views into the retail units are not possible from the Malahide Road elevation due to the use of solid panels behind the glazing in Unit G45 and opaque glazing in Unit G46.

2.0 The Question

- 2.1. The referral was made by Stephen Little & Associates on behalf of IPUT PLC and the referral questions are formulated as follows:
 - Whether the amalgamation of 2 no. retail units (Units G45 and G46) within the internal layout of the shopping centre is or is not development.
 - Whether the amalgamation of 2 no. retail units (Units G45 and G46) within the internal layout of the shopping centre is or is not exempted development.

3.0 Planning Authority Declaration

3.1 Declaration

3.1.1. The Planning Authority issued a Declaration stating that the amalgamation of 2 no. retail units (Units G45 and G46) within the internal layout of the shopping centre IS NOT exempted development for one reason which can be summarised as follows:

- It is considered that the proposed development is considered to be development and as these works involve more than one structure/planning unit, the provisions of section 4(1)(h) do not apply. The proposal constitutes development and is not exempt development.

3.2 Planning Officer's Report

3.2.1. The Planning Officer's report can be summarised as follows:

- The proposal includes the removal of an internal partition wall and therefore constitutes works within the meaning of same under Section 3(1).
- The referrer relies on Section 4(1)(h) of the Acts.
- Having regard to the Board decision under RL2603 it is noted that there are clear similarities between the two cases.
- A number of units are to be amalgamated through the removal of a partition wall, the units were applied for and clearly delineated by way of a planning application and they are clearly individual planning units.
- The wording of Section 4(1)(h) clearly references the 'maintenance, improvement or other alteration of any structure'. The use of the singular form is important and suggests that it can only refer to individual planning units.
- It is accepted that the retail units are contained within a single large building but similarly to the referenced RL2603, the shopping centre may be one large building but it contains a number of clearly defined and numbered individual units.

- As the proposed works involve more than one individual structure, then Section 4(1)(h) does not apply. Planning permission will therefore be required for the works under consideration.

3.3. Other Technical Reports

- None

4.0 Planning History

4.1. Referral Site

- 4.1.1. **ABP Ref. PL06F.246687; Reg. Ref. F16A/0107:** Permission granted for revisions to 'parent' permission, including reconfiguration of units, amalgamation and sub-division of units and other development. In respect of Units G45 and G46, this permission provides for the amalgamation of the mezzanine store areas for retail use associated with Unit G46 and associated internal works to walls, door and vertical circulation within both Units. I note that the final grant of permission does not include any conditions restricting the amalgamation of units.
- 4.1.2. **Reg. Ref. F06A/1683:** Permission granted for revisions to 'parent' permission. The proposed changes comprised the reconfiguration of various units. Units G45 and G46 are indicated as retail units and I note that the final grant of permission does not include any conditions restricting the amalgamation of units.
- 4.1.3. **ABP Ref. PL06F.206626; Reg. Ref. F04A/0054:** Permission granted for revisions to 'parent' permission. I note that the final grant of permission does not include any conditions restricting the amalgamation of units.
- 4.1.4. **Reg. Ref. F98A/1100:** 'Parent' permission for Pavilions Shopping Centre Phase 2. I note that the final grant of permission does not include any conditions restricting the amalgamation of units.
- 4.1.5. **Ref. S5/015/11:** Section 5 Referral regarding the amalgamation of units G05 and G06. The Planning Authority issued a declaration stating that the amalgamation of the two units was exempted development.

4.1.6. **Ref. S5/026/11:** Section 5 Referral regarding the amalgamation of units G02 and G03. The Planning Authority issued a declaration stating that the amalgamation of the two units was exempted development

4.2. **Relevant Board Decisions**

4.2.1. **RL3056:** This referral related to the change of use of a unit from commercial bank to retail use and its amalgamation with four adjoining retail units in Waterford Shopping Centre, Lisduggan, Co. Waterford. The Board concluded, *inter alia*, that:

- the original Unit 7 constituted a planning unit within the overall shopping centre and was subdivided on its southeast side from the adjoining units by means of a wall,
- the amalgamation of four units into one unit to be used in conjunction with unit 7A involve works of construction that would constitute development as defined under Section 3 of the Planning and Development Act, 2000,
- the carrying out of such works for the amalgamation of these permitted individual units would not come within the scope of section 4(1)(h) of the 2000 Act, in that they did not involve works for the maintenance, improvement or other alteration of a structure, but rather of a group of individual permitted units,
- the amalgamation of the permitted smaller retail units into larger unit constitutes a change of use which is considered to be a material change of use, having regard to the character and material external impacts of the larger units (such as their possible impact on the pattern of retailing in the wider geographical area, and the proper planning and sustainable development of the area), and
- the material change of use in the amalgamation of permitted units into a single larger unit would, by reason of article 10(1) of the said Regulations, not be exempted development.

4.2.2. **RL2603:** This referral related to development at Butlerstown Retail Park, Butlerstown, Co. Waterford, which included the amalgamation of retail warehouse units, the subdivision of a unit, the sale of non-bulky goods within a newly

constructed retail warehouse park and the addition of a floor within a retail warehouse unit.

In respect of the amalgamation of retail warehouse units, the Board concluded, *inter alia*, that:

- the buildings on the site have a permitted use as retail warehouses,
- the buildings on the site, as permitted, were all individual planning units, and therefore individual structures,
- the amalgamation of permitted units involved works of construction that would be classified as development,
- the carrying out of such works for the amalgamation of the permitted individual units would not come within the scope of section 4(1)(h) of the 2000 Act, in that they did not involve works for the maintenance, improvement or other alteration of a structure, but rather of a group of individual permitted structures,
- the amalgamation of the permitted smaller retail warehouse units into larger units constitutes a change of use which is considered to be a material change of use, having regard to the character and material external impacts of the larger units (such as their possible impact on the pattern of retailing in the wider geographical area, traffic generation and flows on the road network and parking in the retail warehouse park) and the proper planning and sustainable development of the area,
- the material change of use in the amalgamation of permitted units numbers 1, 10 and 11 into current units numbers 2 and 3 would, by virtue of article 10 (1)(a), (c) and (d) of the said Regulations, not be exempted development, and the material change of use in the amalgamation of permitted units numbers 5, 6, 7, 8 and part of 9 into current unit number 7 would, by virtue of article 10 (1)(a) of the said Regulations, not be exempted development,

The Board therefore decided, *inter alia*, that the amalgamation of two or more retail warehouse units to form larger units are development and are not exempted development.

4.2.3. **RL2562:** This referral related to development at Butlerstown Retail Park, Co. Waterford, which included the use of a number of units, and the amalgamation of three units into one single unit. The Board concluded that:

- the buildings on site have a permitted use as retail warehouses,
- the proposed use of the units constitutes a change of use as the retailing activity does not come within the scope of the definition of activities of a retail warehouse,
- the said change of use constitutes development, being a material change of use, having regard to its character and its material external impacts (such as its possible impacts on city centre retailing, traffic or parking) on the proper planning and sustainable development of the area, and
- the internal alterations to the units to amalgamate same are directly related to the change of use in question and are, therefore, not exempted development:

5.0 Policy Context

5.1. Development Plan

5.1.1. The referral site is located within an area zoned 'Major Town Centre' (MC) under the Fingal Development Plan 2017 – 2023. The MC zoning objective seeks to protect, provide for and/ or improve major town centre facilities.

5.2. Natural Heritage Designations

5.2.1. The referral site is not located within or adjacent to any Natura 2000 sites, Natural Heritage Areas or proposed Natural Heritage Areas. The closest such sites are as follows:

- Malahide Estuary SAC – 1.5km.
- Broadmeadow/Swords Estuary SPA – 1.5km.
- Malahide Estuary pNHA – 1.5km.
- Feltrim Hill pNHA – 2.2km.

6.0 The Referral

6.1. Referrer's Case

6.1.1. The case submitted by the referrer can be summarised as follows:

- Proposed development does not prejudice or impact the implementation of planning permission F16A/0107, which partially relates to Units G45 and G46.
- It is intended that the amalgamated unit will be occupied by a sportswear store (JD Sports).
- The conditions attached to the parent permission and subsequent permissions do not preclude the amalgamation of the units in question.
- Precedent cases of previous section 5 declarations in Pavilions Shopping Centre (FCC Ref. S5/015/11 and S5/026/11), both of which involved amalgamation of two retail units.
- Other precedents for amalgamation of units include at Dundrum Shopping Centre (DLRCC Ref. 8010), the Square Shopping Centre (SDCC Ref. ED08/0019) and Blanchardstown Corporate Park (FCC Ref. S5W/01/2011) and ABP precedent RL2562 at Butlerstown Retail Park.
- The two units operate as shops as defined in the Regulations. The amalgamated unit will operate as a shop and will be consistent with the character of other units within the shopping centre, which have a variety of types and sizes.
- Proposed development meets the four tests outlined in article 10(1) of the Regulations for exempted development. Existing, permitted and proposed use is within Class 1 use class.
- Section 4(1)(h) is applicable, since the proposed works involve the removal of an internal party wall separating the units only, with no alterations to the external features of the units. Proposed works only affect the interior of the shopping centre, not its external appearance.
- Proposed development is consistent with previous FCC precedent at Pavilions Shopping Centre.

- Cases referred to by Planning Authority are not comparable. Case FS5/008/13 relates to an increase in a supermarket floorplate in a town centre setting. The provision of additional convenience retail floorspace is an important planning consideration in the context of the Retail Planning Guidelines, which sets a cap for the size of convenience retail units, the Development Plan and the Retail Strategy. Proposal relates to amalgamation of two comparison goods retail units within a shopping centre that offers an extensive range of comparison retail units of varying sizes and would not give rise to a significant change in the mix of such units. The works would not be out of character or inconsistent with units in the vicinity.
- Case RL2603 is not comparable on the basis that the scale of the changes sought within the retail warehouse park were of a scale that potentially had far reaching effects on the wider retail environment in Waterford and further afield.
- There will be no intensification of use or impact on the mix of retail offering.
- With regard to the 'planning unit', the retail warehouse park in case RL2603 is readily observed as 12 individual units with individual entrances, all of which can be observed externally from a surface car park in front of the development. It is reasonable to assume that the individual units are distinct from each other and can be read as such from the building frontage.
- The Retail Planning Guidelines define shopping centres as "predominantly purpose-built centres comprising a mix of large and small units, typically anchored by a large convenience goods store". This suggests that the larger structure which contains a series of smaller units internally should be considered as the planning unit.
- The 'planning unit' should be considered as the entire Pavilions Shopping Centre with access to individual units only possible from the internal mall.
- On approaching the shopping centre, it presents as one structure/building and on entering the centre the constituent parts are made up of individualised units offering a range of retail options. This is a clear distinction from RL2603.

6.1.2. The referrer also submitted copies of a number of section 5 declarations issued by the various Dublin Planning Authorities regarding the amalgamation of retail units in other areas, including the following:

- **Ref. 8010:** Amalgamation of two units at Dundrum Town Centre, Dublin 14: Is exempted development.
- **Ref. ED08/0019:** Amalgamation of two units at the Square Shopping Centre, Tallaght, Dublin 24: Is exempted development.
- **Ref. S5W/01/2011:** Amalgamation of units at Blanchardstown Corporate Park, Ballycoolin, Dublin 15: Is exempted development.
- **FS5/008/13:** Amalgamation of units at Donabate Town Centre, Donabate, Co. Dublin: Is not exempted development.

6.2. Planning Authority Response

6.2.1. The Planning Authority stated that they had no further comment to make.

6.3. Further Responses

6.3.1. None.

7.0 Statutory Provisions

7.1. Planning and Development Act 2000, as amended ('the Acts')

7.1.1. Section 2(1)

- "structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—
 - (a) where the context so admits, includes the land on, in or under which the structure is situate...
- "alteration" includes—
 - (a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof, that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

- “use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;
- “works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

7.1.2. Section 3(1)

- “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

7.1.3. Section 4(1)

- The following shall be exempted developments for the purposes of this Act—
(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

7.1.4. Section 4(4)

- Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

7.2. **Planning and Development Regulations 2001, as amended**

7.2.1. Article 5(1)

- ‘shop’ means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –

- (a) for the retail sale of goods,
 - (b) as a post office,
 - (c) for the sale of tickets or as a travel agency,
 - (d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and “wine” is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,
 - (e) for hairdressing,
 - (f) for the display of goods for sale,
 - (g) for the hiring out of domestic or personal goods or articles,
 - (h) as a launderette or dry cleaners,
 - (i) for the reception of goods to be washed, cleaned or repaired,
- but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;

7.2.2. Article 6(1)

- Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

7.2.3. Article 9

- Development to which article 6 relates shall not be exempted development for the purposes of the Act—
 - (a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

...

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

7.2.4. Article 10(1)

- Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—
 - (a) involve the carrying out of any works other than works which are exempted development,
 - (b) contravene a condition attached to a permission under the Act,
 - (c) be inconsistent with any use specified or included in such a permission, or
 - (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

7.2.5. Schedule 2, Part 4: Exempted Development – Classes of Use

- CLASS 1: Use as a shop

8.0 **Assessment**

8.1. **Is or is not development**

8.1.1. The first matter relates to whether or not the amalgamation of two retail units to form one larger retail unit comprises development. Section 3(1) of the Planning and

Development Act 2000, as amended, states that 'development' means the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

- 8.1.2. With regard to the issue of use, it is necessary to establish if the proposed amalgamation of the two retail units would result in a material change in use. I note that the permitted and existing use of both units is retail, and that the use of the proposed amalgamated unit will also be retail. I therefore consider that the existing and proposed retail uses fall within the definition of 'shop' as defined in article 5(1) of the Regulations, being the 'retail sale of goods'. Use as a 'shop' falls within use class 1 of Part 4 of Schedule 2 of the Regulations, and in my opinion the proposed amalgamation would not result in a change of use, let alone a material change of use, of the units.
- 8.1.3. The proposed amalgamation will be achieved by removing part of the party wall that currently separates the two units. Having regard to section 2 of the Acts, I consider that the removal of this wall would constitute 'works', which is defined as including any act or operation of construction, demolition or alteration, and the carrying out of said works would therefore comprise 'development' as defined in the Acts.

8.2. **Is or is not exempted development**

- 8.2.1. Having established that the proposed amalgamation of the two retail units is 'development' as defined by the Planning and Development Act 2000, as amended, it must then be determined whether or not such development constitutes exempted development.
- 8.2.2. The referrer contends that the development comprises exempted development under section 4(1)(h) of the Acts. This section states that development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures comprises exempted development. I note that only works can be exempted under this provision of the Acts, and not a material change of use. I further note that section 4(1)(h) refers to 'structure' in the singular, and consistent with the

approach taken by the Board in previous referral cases (RL3056 and RL2603), I consider that the identification of the appropriate planning unit is of paramount importance in assessing this referral.

8.2.3. The term 'planning unit' has no statutory definition, and the referrer contends that the entire Pavilions Shopping Centre is the appropriate planning unit. In contrast, the Planning Authority considered that while the retail units are contained within a single large building, the retail units are clearly defined and numbered individual planning units for which planning permission had been sought. In coming to this conclusion, they relied upon the Board's previous decision in referral case RL2603. However, I would concur with the referrer that there are significant differences between the subject referral and case RL2603, namely that that earlier referral related to the amalgamation of large retail warehouse units for the sale of bulky goods, within an out-of-town retail park. Retail warehousing is a form of retail development that is subject to particular planning controls and the Retail Planning Guidelines for Planning Authorities 2012 state in respect of retail warehouse development that *"local authorities should impose appropriate conditions when permitting retail warehouse developments to prevent the provision of single large units either through new development, coalescence or the linking together of two or more stores and that in general, coalescence or linking together of stores would be considered to be development and therefore subject to a requirement for planning permission."*

8.2.4. I consider that the Board's previous decision in referral case RL3056 is more directly comparable to the subject referral, since it also related to units within a shopping centre. In that case, the Board concluded that the unit to be amalgamated into a larger unit constituted a planning unit within the overall shopping centre, was subdivided from the adjoining units by means of a wall, and that the carrying out of works for the amalgamation of these permitted individual units would not come within the scope of section 4(1)(h) of the 2000 Act, in that they did not involve works for the maintenance, improvement or other alteration of a structure, but rather of a group of individual permitted units. The Board also concluded that the amalgamation of the permitted smaller retail units into a larger unit constitutes a change of use which is considered to be a material change of use, having regard to the character and material external impacts of the larger units (such as their possible impact on the pattern of retailing in the wider geographical area, and the proper planning and

sustainable development of the area), and that said material change of use would not be exempted development.

- 8.2.5. I would tend to agree with the assessment of the Inspector who reported on referral RL3056, that there is an important point of principle under consideration when considering such amalgamation. Were it to be established that the amalgamation of units within a multi-unit shopping centre was exempted development, then it could potentially give rise to a scenario where more and more units are amalgamated without any opportunity for a planning assessment of the implications for traffic, car parking and the retail impacts on the wider area. Indeed, as noted above, planning permission has previously been granted to amalgamate the mezzanine store area of Units G45 and G46 and to utilise the resultant area as retail floor space associated with Unit G46 (PL06F.246687; Reg. Ref. F16A/0107 refers). If the two retail units are fully amalgamated as proposed on foot of this referral and the extant permission, the resultant retail unit would have a total floor area of c. 940 sq m, which is a considerable size for a single comparison retail unit.
- 8.2.6. Having regard to the Board's previous decision in referral case RL3056, and noting that planning permission was originally granted for a certain number of clearly defined and numbered retail units within the Pavilions Shopping Centre (subsequently amended over the intervening period) and also noting the clear functional separation of the two retail units, which are separated by means of a solid wall and which have separate primary retail frontages within the central mall area and separate secondary frontages and service doors to the Malahide Road, I consider that each retail unit should be considered to be an individual planning unit.
- 8.2.7. I therefore consider that the carrying out of works for the amalgamation of these permitted individual units would not come within the scope of section 4(1)(h) of the 2000 Act, in that they would not involve works for the maintenance, improvement or other alteration of a structure, but rather of two individual permitted units. I therefore consider that the proposed amalgamation of two retail units (Units G45 and G46) within the internal layout of the shopping centre is not exempted development.

8.3. Restrictions on exempted development

8.3.1. Notwithstanding my conclusion that the proposed amalgamation of the two retail units is development and is not exempted development, I have considered below the issue of 'de-exemptions', should the Board not agree with my conclusion.

8.3.2. Article 9 of the Regulations sets out a number of restrictions which can de-exempt development that would otherwise constitute exempted development. However, the restrictions under article 9 are only applicable to development which would otherwise be exempted development under article 6. Since I consider that the proposed development would not be exempted development under article 6 of the Regulations (i.e. development of a class specified in Schedule 2 of the Regulations), I do not consider that the article 9 restrictions apply in this instance.

8.3.3. A further restriction is set out in section 4(4) of the Acts which states that development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

8.3.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development which relates to the amalgamation of two existing retail units within a shopping centre on a zoned and serviced town centre site which is not located in or adjacent to any European sites, I do not consider that any Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.3.5. Environmental Impact Assessment

The various classes and thresholds for which a mandatory EIA is required are set out in Schedule 5 of the Regulations, and the criteria for establishing whether or not a sub-threshold development would be likely to have significant effects on the environment, and thus require an EIA, are set out in Schedule 7 of the Regulations. Having regard to the nature and scale of the proposed development, as outlined above, I do not consider that it is a form of development that would require either a mandatory or a sub-threshold EIA.

9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the amalgamation of two retail units (Units G45 and G46) within the internal layout of the Pavilions Shopping Centre, Swords, Co. Dublin is or is not development or is or is not exempted development:

AND WHEREAS IPUT PLC requested a declaration on this question from Fingal County Council and the Council issued a declaration on the 3rd day of April, 2017 stating that the matter was development and was not exempted development:

AND WHEREAS IPUT PLC referred this declaration for review to An Bord Pleanála on the 2nd day of May, 2017:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2(1), 3(1), 4(1)(h) and 4(4) of the Planning and Development Act, 2000, as amended,
- (b) Articles 5, 6(1), 9 and 10(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Parts 1 and 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site,
- (e) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that

- (a) Units G45 and G46 constitute separate planning units within the overall shopping centre, are functionally separated from each other by means of a wall and have separate primary retail frontages within the central mall area and separate secondary frontages and service doors to the Malahide Road,
- (b) the proposed alterations to amalgamate the two retail units comprises works and would therefore constitute development as defined under Section 3 of the Planning and Development Act 2000, as amended,
- (c) the carrying out of such works for the amalgamation of these permitted individual units would not come within the scope of section 4(1)(h) of the 2000 Act, in that they would not involve works for the maintenance, improvement or other alteration of a structure, but rather of two individual permitted units,

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the amalgamation of two retail units (Units G45 and G46) within the internal layout of the Pavilions Shopping Centre, Swords, Co. Dublin is development and is not exempted development.

Niall Haverty
Planning Inspector

3rd November 2017