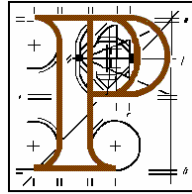


An Bord Pleanála



Inspector's Report

Development: To modify part of previously approved mixed-use development granted under reg.ref.06/1796, comprising change of plan to building Block A to retail and ancillary store.

Site Address: River Street, Clara, Co. Offaly.

PLANNING APPLICATION

Planning Authority:	Offaly County Council
Planning Authority Reg. Ref.:	09/274
Applicants:	Denis O'Connell
Type of Application:	Permission.
Planning Authority Decision:	Grant permission with conditions

Planning Appeal

Appellant:	Pat Ryan & Jim Campion.
Type of Appeal:	Third party against decision.
Date of Site Inspection:	15/01/10

Inspector: **John Desmond**

SITE DESCRIPTION

The application site is located within the centre of Clara, a small village situated in the mid north of Offaly County. The site has a stated area of 0.642ha, however this would seem to exclude the southern corner of the site (an area of c.0.18ha). Although no amendments are proposed within the southern corner of the site, it is included within the redline boundary as shown on the submitted drawing, notwithstanding the hatched redline indicated between the two areas.

The site has frontage of c.50m onto River Street to the south-southwest, one of the principle historic streets of the village. It has frontage of c.115m onto the more recent suburban road to the east-southeast of the site, which seems to have no name. Although River Street is an older street within the village's historic core, the buildings on the site and many of the buildings within the vicinity would appear to mainly be of comparatively recent origins. The garage structure fronting onto River Street at the south of the site would appear to be the oldest structure on the site, dating from the mid 20th Century, and has some attractive architectural features on its street-facing elevation. There are 2no. 2-storey dwellings (dating from 1970's and later, I would expect) on site fronting onto River Street, with a single-storey public house attached to the westernmost of those dwellings. There are 2no. detached, single-storey bungalows on relatively generous suburban-type sites, fronting onto the public road to the west, which date perhaps from the 1970's or 1980's.

The remainder and majority of the site comprises of a backland area which can be described as 2no. agricultural-type fields / gardens. They are under grass and would appear to be in use. The southern corner of the site is generally flat and level with River Street. The main body of site is generally raised along the southwest, mid-south and east, but slopes down quite by 2-3m to the northeast. The northwest and northeast site boundaries are demarcated by limestone rubble walls estimated at up to 3m in height. There is a similar wall running from southwest to northeast between the two backland fields / gardens.

The southwest and west the site abuts the boundaries with residential properties. To the northwest the site abuts similar agricultural field / garden backland areas. To the northeast the site abuts the boundaries of suburban 2-storey housing dating probably from the 1970's. Similar residential properties line the opposite side to the public road to the east.

The commercial centre of Clara appears to be (and to have historically been) focussed on Main Street and The Square c.60m to the west-northwest of the site.

PROPOSED DEVELOPMENT:

The application is for permission to modify part of previously permitted mixed-use development (granted reg.ref.06/1796 / PL19.224942). The proposed modifications comprise of a complete change of plan to building block A to comprise a double-height ground floor retail & ancillary store areas reduced to 1830-sq.m to comprise an anchor store of 780-sq.m and 7no. retails units ranging in size from 121-sq.m to 167-sq.m (total 917-sq.m). Ancillary refuse, storage, service areas are proposed. The first and second floor levels (referred to by applicant as second and third floor levels, perhaps due to double-height nature of the proposed ground floor) with loss of 609-sq.m office and 23no. residential units. Changes are proposed to all elevations and

the basement car park will also be omitted, with 126no. surface car parking spaces proposed plus associated works at River Street, Clara, Co. Offaly. Proposed finished floor level at ground floor level is 49.425 compared to 49.60 permitted FFL.

Supporting documentation:

Engineering Report by Corbell Design

HISTORY

Reg.ref.06/1796 / PL19.224942: Permission **GRANTED** by the Board (29/01/08) for the construction of a mixed use development in 3no. blocks consisting of 3no. double-height ground floor retail units, office space, a public house and residential units, having been granted by Offaly County Planning Authority in the first instance. Block A was 3-storeys over basement car parking for 190no. cars. Ground floor comprised a double-height retail area with an anchor unit of 1457-sq.m GFA, 9no. retail units 7no. of which were in or around 100-sq.m GFA, each, and the other 2no. were c.55-sq.m and 63-sq.m (c.837-sq.m GFA for the 9no. units). The gross floor retail floor area amounted to 2294-sq.m, excluding pedestrian mall of c.250-sq.m. First and second floor levels accommodated 23no. residential units (21no. described as town houses and 2no. apartments). The development provided for the relocation and reorientation of a 1940's garage on River Street, which was subject of condition no.10 of the Board's decision.

PLANNING AUTHORITY DECISION

To **GRANT** permission subject to 13no. conditions. The following conditions are of particular note:

No.4 restricts the use of block A to 'shop' defined under Class 1 of Part 4 Schedule of the Planning and Development Regulations and prohibits subdivision.

No.5 addresses signage.

No.7 sets noise limits, addresses waste management during operation and demolition / construction.

Nos.8-11 address water supply and foul and surface water drainage details.

Nos.12 & 13 are in respect of development contributions and supplementary development contribution for the Clara sewage scheme upgrade, respectively.

REPORTS TO THE PLANNING AUTHORITY

Planning Officers report

2no. reports issued from a Planning Officer of the County Council, which are consistent with the decision of the Planning Authority to seek further information and to subsequently grant permission.

Departmental Reports

Water Services : No objection subject to conditions, including a

	supplementary development contribution (18/09/09). Further information requested (17/07/09).
Environment	: No objection subject to conditions (01/09/09). Further information requested (30/07/09).
Road Design	: No objection subject to condition (07/08/09).
EHO / HSE	: No objection subject to conditions (16/07/09).
Area Engineer	: No objections (report of 16/07/09, not signed).
CFO	: No objection subject to condition (07/07/09).

Observations / Objections

2no. letters of objection received from Mary Henry and from Pat Ryan & Jim Campion. The issues raised are generally repeated in the grounds of appeal and are summarised in that section. Additional points raised in the initial objections include:

- Due consideration not given to the impact of traffic control and pedestrian safety in the town.
- Waste management provision is totally inadequate given the scale of the development.
- The assumptions upon which the Traffic Impact Assessment submitted with the previous permitted planning application reg.ref.06/1796 – road widths are incorrect and the junction to N80 is inadequate.

GROUND OF APPEAL

Third party appeal from Pat Ryan & Jim Campion

The grounds of appeal can be summarised as follows:

- Sufficient title to land not demonstrated.
- EIS required for surface parking.
- IPPC licence is required & compliance required with Waste Licence, Major Accidents and Strategic Development Zone regulations.
- No conditions attached regarding landscaping, road construction, management company, archaeology and architectural heritage.
- The County Offaly Retail Strategy 2015 suggests the existing convenience shopping is ample for the current and foreseeable population of Clara.
- Will adversely impact on existing retail shopping patterns, kill the prospects of existing outlets and deteriorate the existing town centre.
- The proposed floor space accounts for 26.52% of the total convenience floor space proposed for County Offaly, excluding Tullamore, up to 2021. This is not sustainable and would be detrimental to Clara and Tullamore.
- Disputes that County Retail Strategy takes account of permitted retail floor space on the site (under reg.ref.06/1796) for Clara for convenience shopping.
- Out of date and flawed Retail Impact Statement submitted with previous permitted application reg.ref.06/1796 did not take account of the LONDIS store which accounts for 40% of convenience shopping in Clara.

- The proposed development is contrary to the Offaly County Retail Strategy 2008-2015 which takes no cognisance of the proposed development in assessing the needs of Clara – the Planning Officer failed to address this submission.
- HSE report not taken account of by Planning Officer.
- Premature pending the upgrade of the Clara sewerage scheme.
- Premature pending the provision of the required parking facilities at the northern end of the town referred to under section 5.58 of the County Offaly Retail Strategy.
- Conditions regarding parking and pedestrian crossing recommended by the Council’s Roads Engineer were not included. Revised TIA required to address 126no. surface parking spaces. Road Safety Audit was not required by condition. The junction to the N80 is inadequate.

RESPONSES

Planning Authority:

No further observations

First Party:

No response received.

POLICY

Offaly County Development Plan 2009-2015.

Chapter 3 – Overall Strategy & Goals:

3.1.1 ‘Centre’ of the County [Gateway and Surrounding Areas]

Chapter 4 – Settlement Strategy:

‘Central Area’

Tier 2 ‘Medium Towns

Section 4.6 - Policy P04-01 & P04-07

Chapter 9 – Retail

Context

Strategy Principles

Section 9.4 – Policy P09-01 - P09-08

Clara Local Area Plan 2005

The application site is zoned ‘town centre’.

OTHER RELEVANT DOCUMENTS:

Offaly County Retail Strategy, 2009 (as appended to Offaly Development Plan, 2009-2015) – The County Strategy identifies Tullamore town as the sole ‘*primary tier*’ retail centre in the County, with Edenderry, Birr and Clara town centres being the ‘*secondary tier*’ centres. The strategy is to reinforce and extend the high order retail function of Tullamore as part of the ‘*linked Gateway*’ in order to reduce expenditure leakage to outside of the County, with the main focus of retail development being Tullamore. The town centre appraisal of Clara considered the existing convenience shopping to appear ample, takes account of two permitted mixed-use and retail development at River Street,

Clara, and indicates that 14% of comparison shopping “in the pipeline” is located at Clara and Birr. However, the strategy appears to omit the permitted convenience floor space within Clara in its calculations under table 5-1 ‘Retail Floorspace in County Offaly’, referring to the committed shopping floor space as comparison only, although I would suspect that this is a simple error.

ASSESSMENT

Having inspected the site and reviewed the file documents, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Principle of development / policy issues
- General design / visual impact
- Roads / traffic issues
- Drainage / water supply issues
- Impact on neighbouring residential amenities
- Landscaping / boundary treatment / signage
- Other issues

Principle of development / policy issues:

Offaly Planning Authority and the Board both accepted the principle of a relatively substantial retail development at this location in their decisions to grant permission under reg.ref.06/1796 / PL19.224942. The scale of the proposed retail development has been reduced by approximately 30% from that currently permitted on this section of the site. The anchor store has been reduced by almost 50% and the smaller units have been reduced in number, though the average size of these units has increased from c.93-sq.m to c.133-sq.m, and the total floor area devoted allocated to smaller units has increased by c.10%. I do not consider the amendments to the floor area to be particularly significant.

The Offaly County Retail Strategy, adopted subsequent to the decision of the Board to grant permission under PL19.224942, takes account of the permitted retail development on this site in its ‘town centre assessment’ for Clara, although it would seem to omit the permitted convenience floor space on the site from its calculations. The statutory plan guiding development, Clara Local Area Plan 2005, remains unchanged and in force since the said previous decision of the Board. As the proposed retail aspect of the development is similar, though reduced, compared to that already permitted, I do not, consider it necessary to revisit the principle of the retail development on this site in the context of the retail strategy and the local area plan.

The new Offaly County Development 2009-2015 has been adopted subsequent to the decision of the Board to grant permission on this site. It is the policy of the Council (P09-01) to implement the retail hierarchy as set out in the Offaly Retail Strategy and (P09-02) to consider the scale, type and location of retail developments within the County when determining their suitability. Under the County Development Plan 2009, the Council’s area-based strategy (section3.1) recognises Clara’s position within the Midlands’ Gateway of Tullamore, Athlone and Mullingar and identifies Clara for population expansion, employment opportunities, business, industry, tourism and infrastructural development by the ‘Strategic Development Framework for the Midlands Gateway, and as a focus for development as a supporting town to

Athlone, Tullamore, Mullingar and as an urban area within the gateway. The County Plan provides that, in particular, employment-generating development and commercial development, services etc. will be encouraged and promoted in Clara. The proposed development is generally consistent with the provisions of the County Plan.

General design / visual impact:

The proposed building is significantly smaller in scale, massing and height than that previously permitted. The general style is similar to that previously permitted. The proposed building would be located further from site's northwest, northeast and southeast (roadside) boundaries. I consider the overall design of the proposed building to be generally acceptable. Although it would not create new street frontage onto the public road to the southeast, the said road is suburban in character and contrasts with the village centre streetscape along River Street. I am satisfied that the arrangement will accord reasonably well with the character of this location.

Road / traffic issues:

The development permitted under reg.ref.06/1796 / PL19.224942 provided an entrance to the public road to the southeast, with access for 189no. basement car parking spaces 60no. surface car parking spaces (see drawings no.3003 dated 08/01/07 and no.3004 dated 26/06/07 submitted to reg.ref.06/1796 / PL19.224942). The proposed entrance is located as per the previously permitted development and will accommodate access to 126no. surface car parking spaces. The Council's Road Design section had no objection to the proposed development and noted that a Traffic Impact Assessment was submitted with the previous application, however it did require that the entrance to the development, the junction with the N80/River Street and the internal road layout be subject to a Road Safety Audit. The Planning Authority did not require an RSA to be submitted by way of further information request or by condition.

Drainage / water issues:

The Water Services Section and the Environment Section of the Council had no objection subject to conditions. The proposed development will result in significantly less pressure on the local sewerage system than that already permitted. The drainage details and water supply details should comply with the requirements of the local authority.

Impact on neighbouring residential amenities:

The proposed development will not unduly impact on the amenities of adjacent properties.

Landscaping / boundary treatment / signage:

It would be appropriate for the details of external finishes, signage, boundary treatment, landscaping and planting within the site to be agreed with the Planning Authority prior to commencement of development. This was required by the Board under condition nos.2, 4 and 11 of its decision PL19.224942.

Other issues

The proposed revisions to the permitted development provide for the omission of the significant residential element and office element and result in a scheme that is predominantly retail commercial in nature. Although it would be preferable to provide a more balance mix of uses on this village centre site, there is no policy within the Clara Local Area Plan requiring that development on town centre sites include a residential uses. The immediately surrounding area has a high proportion of residential development and I do not consider the residential aspect to be essential to maintain or improve the vitality of this particular area.

Conclusion

The proposed development comprises of a significant reduction in the size and scale of the mixed-use scheme previously permitted on this site by the local Planning Authority and, on appeal, by the Board. The principle of the retail development was accepted by the Board in its decision to grant permission under PL19.224942. The amended scheme will result in a reduction in the potential impacts on the surrounding area and, therefore, I consider the proposed development to be acceptable. I therefore recommend that permission be granted subject to similar conditions attached by the Board to PL19.224942.

REASONS AND CONSIDERATIONS

Having regard to the location of the site within the town centre of Clara, the pattern of development in the vicinity and the town centre zoning objective for the area under the Clara Local Area Plan 20054, it is considered that the proposed development would not seriously injure the amenities of property in the vicinity and would accord with the proper planning and sustainable development of the area.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted the 24th day of August 2009, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.]

Reason: In the interest of clarity

2. This decision to grant permission is in respect of the following amendments only to block A, within that development permitted under PL19.224942, comprising of a complete change of plan and of elevations, the omission of the basement, first and second storeys levels, the provision of 126no. surface car parking spaces, and the provision ancillary refuse and storage areas. The development shall in all other respects comply with permission PL19.224942

and with the conditions attached thereto, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity

3. Prior to commencement of construction of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement. In this regard, sample panels shall be erected on site to facilitate the planning authority.

Reason: In the interest of orderly development and the visual amenities of the area.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

5. Details in relation to signage, public lighting and security measures throughout the entire scheme, including the individual units and uses, and shall be submitted to and agree with the planning authority prior to the commencement of the development.

Reason: In the interests of visual and residential amenity.

6. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

7. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

8. The developer shall facilitate the planning authority in the archaeological appraisal of the site and in preserving and recording or otherwise protecting archaeological materials or features which may exist within the site. In this regard, the developer shall:-
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

Prior to commencement of development, a report containing the results of the assessment shall be submitted to the planning authority. Arising from this assessment, the developer shall agree with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to the Board for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

9. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to the planning authority for agreement before development commences. The scheme shall include a timescale for its implementation.

Reason: In the interest of visual amenity.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

Reason: To ensure the satisfactory completion of the development.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

12. The developer shall pay to the planning authority a financial contribution of €10,128.00 (ten thousand, one hundred and twenty eight euro) in respect of the Clara sewerage scheme upgrade in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

John Desmond
Inspectorate
18/01/10