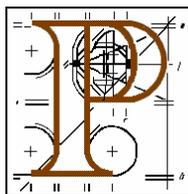


## An Bord Pleanála



## INSPECTOR'S REPORT

**DEVELOPMENT:** retention of two diesel dispensing pumps, office kiosk and double sided sign in a steel structure and associated site works

**LOCATION:** 108 / 110 Collins Avenue, Dublin 9

### PLANNING APPLICATION

**Planning Authority:** Dublin City Council

**Planning Authority Reg. Ref.:** 3653/10

**Applicant:** K Garland

**Type of Application:** Permission

**Planning Authority Decision:** Refuse

### PLANNING APPEAL

**Appellant:** K Garland

**Type of Appeal:** First Party

**Observers:** None

**DATE OF SITE INSPECTION:** 24<sup>th</sup> February 2011

**INSPECTOR:** Mary Crowley

## 1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is located on the northern side of Collins Avenue to the north east of Dublin City Centre. The appeal site with a stated area of 484 sqm comprises No 108 and 110 Collins Avenue; and forms part of a small cluster of commercial development at this location which has what appear to be a communal parking / service area to the front. A laneway of approx. 3.4m width runs along the western and northern boundaries of the site and separates the subject site from 112A Collins Avenue to the west.
- 1.2 A set of photographs of the site and its environs taken during the course of the site inspection is attached.

**NOTE:** During the site inspection for the proposal it was noted that the valeting service which was part of previous planning application for retention under Reg Ref 2610/09 (see Section 6.0 Planning History below) is still in operation. It was also noted that "Tyre Central" was operating on site offering tyre sales and repair together with oil changes and batteries.

## 2.0 PROPOSED DEVELOPMENT

- 2.1 This is an application for the retention of two diesel dispensing pumps and office kiosk, including the double sided 8 sqm sign on steel structure 7.5m in height at the forecourt.

## 3.0 TECHNICAL REPORTS

- 3.1 The **Environmental Health Officer** (EHO) has no stated objections and sets out two conditions to be attached relating to (1) noise levels and (2) extraction, ventilation and air quality. The **Roads & Traffic Planning Division** has serious concerns regarding the use of the site for diesel sales at this location and refusal is recommended (refusal reason no 1 refers). The **Engineering Department** (Drainage Division) has no objection subject conditions and compliance with the Greater Dublin Regional Code of Practise for Drainage Works.
- 3.2 According to the Local Authority Planners report the **Dublin Fire Brigade** have their own concerns about the site and have volunteered some background information following a site inspection summarised as follows:
- 1) Above ground storage tank (10,000 ltr) at rear of 110 Collins Avenue a residential area is an unsuitable location
  - 2) Area for the transfer of the petroleum from the tank vehicle to the storage tank is insufficient
  - 3) Current layout does not accommodate a 4m distance from the dispenser to the site boundary
  - 4) Any car wash system should not drain through the oil interceptor
- 3.3 The Local Authority **Planner** raises concerns about the suitability of the site for the development proposed and states that the first concerns of the Dublin Fire Brigade (see above) is an obvious planning issue as there is no exemption for such a large commercial storage tank and no evidence that any permission has been sought for same. The Planner recommended that the permission be refused for two reasons. The notification of decision to refuse planning issued by Dublin City Council reflects this recommendation.

#### 4.0 OBJECTIONS / OBSERVATIONS TO THE PLANNING AUTHORITY

4.1 No observations / objections are recorded on file.

#### 5.0 PLANNING AUTHORITY DECISION

5.1 The planning authority issued notification of decision to **refuse** planning permission for two reasons as follows:

1. *Having regard to the restricted nature of the site, the lack of any parking and servicing facilities, its proximity to Collins Avenue and to the public laneway at the rear, it is considered that the development would give rise to traffic congestion, would lead to conflicting turning movements at this location and would therefore, endanger public safety by reason of traffic hazard.*
2. *The retention of the tall forecourt sign, as well as being unnecessary in light of the previous refusal reason, exacerbates the pre-existing visual clutter due to the proliferation of various signage already developed within the site, as such reduces visual amenity of the site and surrounding streetscape, therefore depreciating the value of property in the vicinity.*

#### 6.0 PLANNING HISTORY

6.1 There is no evidence of any previous planning appeals on this site. Reference is made to two previous planning applications on this site that can be summarised as follows:

**Reg Ref 2043/07** – Application for permission for change of use of the existing vacant TV rental facility at ground floor level into an off license together with three apartments at first floor and associated works was deemed **withdrawn** following a request for further information

**Reg Ref 2610/09** – According to the report of the Roads & Traffic Planning Division there was a Local Authority decision to refuse permission for the retention of change of use from a TV showroom to a car sales / showroom and valeting service at ground floor level at 108 / 110 Collins Avenue. No further details pertaining to this application have been made available with this appeal file.

6.2 According to the planning application form and the local authority planners report an **enforcement notice** was issued against unauthorised petrol / diesel pumps, fuel sales and signage at this location. No further details pertaining to this enforcement have been made available with this appeal file. It is also stated in the planners report that the car wash is deemed to be immune from enforcement action.

#### 7.0 POLICY CONTEXT

7.1 The relevant document is the **Dublin City Development Plan 2011-2017**. The site is within an area-zoned **Neighbourhood Centres – Zone Z3** where the land use zoning objective is to *provide for and improve neighbourhood facilities*. Section 17.39 and Appendix 8 deals with **Petrol Stations**.

## **8.0 GROUNDS OF APPEAL**

- 8.1 The **FIRST PARTY** appeal has been prepared and submitted by Aidan A O'Driscoll & Associates on behalf of the applicant K Garland against the decision of Dublin City Council to refuse permission for two reasons. The grounds of appeal can be summarised as follows:
- 8.2 It is stated that petrol pump dispensing facilities existed on this site for over 50 years and this facility also included an office kiosk, a facility which was mainly used by the local residents and passing traffic and while the usage was terminated for a short period it became evident that there was a demand for this facility in this area which has neighbourhood facilities and shopping across the road from the appeal site.
- 8.3 The applicant provides servicing facilities as may be requested and he maintains a clear passageway from Collins Avenue to the public laneway to the rear and any temporary restriction is cleared without delay
- 8.4 There is seldom any traffic congestion in that the average motorist continues on past if there appears to be any delay in purchasing fuel
- 8.5 As the applicant has entry and exit points at each end of the pump locations, conflicting turning movements are seldom experienced
- 8.6 All service facilities generate signage and the proposed signage is effectively linked to the existing business activities in this general area. It is difficult to accept that the general signage in this area including that relating to the applicants site would depreciate the value of property in the vicinity. In some cases house purchases would regard the extent of the shopping facilities including the applicants facility as being desirable and advantageous.
- 8.7 There are similar established facilities further along Collins Avenue in Whitehall and in the Beaumont area which are generally acceptable and do not cause various problems outlined in the reasons for refusal.

## **9.0 RESPONSE OF THE PLANNING AUTHORITY**

- 9.1 The Planning Authority is satisfied that the *DCC planning and department reports on file deal fully with all the issue raised and justifies its decision*. No additional comments are provided.

## **10.0 OBSERVATIONS**

- 10.1 No observations are recorded on file.

## **12.0 ASSESSMENT**

- 12.1 This is an application for retention of two diesel dispensing pumps and office kiosk, including the double sided 8 sqm sign on steel structure 7.5m in height at the forecourt. I note the comments put forward by the applicant that petrol dispensing facilities existed on this site for over 50 years but that this use was terminated for a short period. No further information in this regard has been made available with the appeal file and no further elaboration as to what constitutes a "short period" in this context has been provided. It appears from the file however that the last use of the site was that of a TV rental facility that was documented as being vacant

in the 2007 application for a change of use (Reg Ref 2043/07 refers). Accordingly it may be the case that any previous use at this site as a petrol dispensing facilities was either superseded by a change of use to TV Rental Facility or may have been simply abandoned. Either way I consider having regard to the absence of any detailed information pertaining to the former use of the site as petrol dispensing facilities that it would be appropriate in this instance to consider the proposed scheme from first principles in this instance.

12.2 Notwithstanding the obvious Health and Safety and Pollution Control issues as noted on day of site inspection and documented in the Local Authority Planners report I consider the pertinent planning issues to be considered in this appeal are the design and visual impact of the scheme together with traffic safety.

12.3 The appeal site is wholly contained within an area zoned Neighbourhood Centres – Zone Z3 where a petrol station is open for consideration. However Section 17.39 Development Standards for Petrol Stations of the current Development Plan states that *petrol stations will not generally be permitted in residential areas, unless it can be clearly demonstrated that no significant damage to residential amenities will occur by reason of factors such as noise, visual obtrusion, safety considerations or fumes and smells*. Having regard to the proposed use to be retained at a location that adjoins a predominately residential area Zoned Z1 where the zoning objective is to protect, provide and improve residential amenities it is considered that the poor standard of design and layout of the forecourt together with the tall forecourt sign that would exacerbate the pre-existing visual clutter due to the proliferation of various signage already developed within the site that would cause significant damage to adjoining residential amenities and reduce the visual amenity of the site and surrounding streetscape, therefore depreciating the value of property in the vicinity. Refusal is recommended

12.4 As stated in the current Development Plan every new petrol station must be laid out in such a way that vehicles are refuelled, and can wait to be refuelled, clear of the highway, that the layout shall permit safe access for delivery tankers (cab plus trailer) up to 15.25 metres in length, and that an adequate off-road area shall be provided for parking these vehicles safely without obstructing access to pumps while fuel is being delivered to the petrol stations. Having regard to the layout and location of the proposed scheme opposite a busy neighbourhood centre with direct frontage onto Collins Avenue West, a heavily trafficked road I share the concerns raised by the Roads & Traffic Planning Division of the Local Authority as follows. Firstly the existing diesel fuel pumps are located c 2.3 m from the public footpath whereby any large commercial vehicles using the facility shall extend onto the public footpath thus endangering pedestrians. Secondly parking at the site is haphazard with numerous conflicts between vehicles trying to access that pumps and also with parking associated with the other uses adjacent to the site. Cars accessing the laneway to the rear have also to negotiate with vehicles using the facility. Furthermore a small number of vehicles using this site at any one time may lead to queuing along Collins Avenue due to the restricted nature of the site. having regard to the foregoing it is considered that the development would give rise to traffic congestion, would lead to conflicting turning movements at this location and would therefore, endanger public safety by reason of traffic hazard. Refusal is recommended.

### 13.0 RECOMMENDATION

13.1 Having considered the contents of the application, the provision of the Development Plan, the grounds of appeal and the response thereto, my site inspection and my assessment of the

planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

#### **14.0 REASONS AND CONSIDERATIONS**

1. Having regard to the restricted nature of the site, the lack of any parking and servicing facilities, its proximity to Collins Avenue and to the public laneway that provides access to the rear of properties along Collins Avenue, it is considered that the development would give rise to traffic congestion, would lead to conflicting turning movements at this location and would therefore, endanger public safety by reason of traffic hazard.
2. The retention of the tall forecourt sign, as well as being unnecessary in light of the previous reason for refusal, constitutes a visually obtrusive and dominant form of development in a predominantly residential area and also exacerbates the pre-existing visual clutter due to the proliferation of various signage already developed within the site, as such reduces visual amenity of the site and surrounding streetscape, therefore depreciating the value of property in the vicinity.

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**Mary Crowley**  
**Inspectorate**  
**28<sup>th</sup> February 2011**