



An  
Bord  
Pleanála

## Inspector's Report ABP-305392-19

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<b>Development</b>	Retention of change of use of premises to self-storage facility, shipping containers used as storage units, fencing, sign at roadside entrance, security fence and gate at entrance.
<b>Location</b>	Clonacoole, Naas Road, Clondalkin, Dublin 22
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD19A/0202
<b>Applicant</b>	Eurobin Ltd.
<b>Type of Application</b>	Permission (Retention)
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Eurobin Ltd.
<b>Date of Site Inspection</b>	16 <sup>th</sup> , December 2019
<b>Inspector</b>	Paddy Keogh

## 1.0 Site Location and Description

- 1.1.1. The site of the proposed development which has a stated area of 0.15 hectares is an irregular shaped site accessed via a slip road connecting Monastery Road Clondalkin with a roundabout interchange providing access onto the N7 (National Primary Road) a short distance to the east of the site. The slip road runs parallel with the main carriageway of the N7. The carriageways between each road are separated only by a low narrow concrete strip/kerbing. Vehicle movements in an eastbound direction only are permitted along the slip road. The slip road is a busy heavily trafficked route with vehicles travelling at up to the maximum of the speed limit A speed limit of 50 kph applies.
- 1.1.2. The slip road serves a number of commercial properties including 'Joel's' Restaurant, a Filling Station, a car sales outlet, a derelict premises, 2 houses (neither of which appear to occupied) etc. A short cul-de-sac of cottages (St. Brigids' Cottages) is also accessed from the slip road. The latter cottages are substantially surrounded by commercial/industrial uses that have characterised the development of the surrounding area in more recent years.
- 1.1.3. The bulk of the site is located to the rear of a two-storey dwelling (appears to be unoccupied). The remainder of the site is the access route from the slip road which runs along the immediate western boundary of the site,
- 1.1.4. It appears that the only structures on the site are those in respect of which planning permission for retention is now being sought.
- 1.1.5. The site is elevated above the level of the carriageway of the slip road and the N7. The shipping containers thereon are clearly visible from the public road especially when travelling on the westbound carriageway of the N7 (above the central concrete median). [I travelled the westbound carriageway of the N7 three times in an attempt to stop and take photographs of the (clearly visible) containers but failed to do so as it was unsafe to attempt to stop on each occasion].

## 2.0 Proposed Development

- 2.1.1. The proposed development includes retention of the following:
  - Change of use of premises to self-storage facility,

- 40 Shipping Containers used for self-service storage,
- 10 m. length of 2.6 m. high green palisade fencing,
- Sign at roadside entrance and sign to side of unit 40,
- 2.3 m. high hsecurity gate and fence at entrance.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Notification of a decision to refuse planning permission for the proposed development for 3 reasons issued from the planning authority per Order dated 15<sup>th</sup>, August 2019.

3.1.2. Briefly, the reasons for refusal were as follows:

- (1) Traffic hazard – adverse impact on N7 and associated junctions (contrary to Development Plan policy).
- (2) Visual Impact (contravene Development Plan policy ET3 which requires a high standard of architectural design and landscaping of industrial areas).
- (3) Undesirable precedent for similar development.

#### 3.2. Planning Authority Reports

- Planning Reports

3.2.1. A report from the planning authority Senior Planner dated 14<sup>th</sup>, August 2019 includes:

- The site is zoned for Enterprise & Employment in the Development Plan. The proposed use can be regarded as falling within warehousing use which is permitted in principle within this zoning (subject to safeguards in respect of design, environmental, traffic and amenity).
- The containers proposed for retention have been placed on a highly visible site off the N7 and in close proximity to the M50/N7 interchange. The

proposal is considered to be at variance with key principles and provisions of the Development Plan.

- The retention of the development would establish a negative precedent which would undermine the development of the 'EE' zoned lands.
- Such development would be more properly located on a backland site within an industrial estate and not on a high profile site.
- It is considered that the proposed development is haphazard in nature and its retention would injure the visual amenities of the area and would be contrary to Development Plan policy (Section 11.2.5 and Table 11.18)
- The planning authority Roads Department recommend that permission for retention of the development should be refused for reason of traffic hazard.

The planning authority decision to refuse planning permission reflects the recommendation of the Senior Planner.

### 3.2.2. Other Technical Reports

3.2.3. **Roads Department** – The Report from the planning authority Senior Planner dated 14<sup>th</sup>, August 2019, refers to a report from Roads Department (not on file) which states:

*The entrance is on the east bound slip road of the N7. The development leads to traffic intensification at a junction at a very busy section of the N7. The slowing and turning movements will result in an increased traffic hazard. The left turning radius is not adequate. There is no splay of the wall on the western wall pier.*

3.2.4. **Water Services Department** – Report (undated & unsigned) indicates no objection to the proposed development.

### Prescribed Bodies

**Transport Infrastructure Ireland (TII)** – Report dated 16<sup>th</sup>, July 2019 states that the development proposed for retention is at variance with official policy in relation to the control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as

the proposed development by itself, or by the precedent which a grant of planning permission would set, would adversely affect the operation and safety of the national road network. The proposal, if approved, would permit the intensification of an existing direct access to a national road (and its associated junctions) contrary to official policy in relation to the control of frontage development on national roads.

## 4.0 Planning History

### ***Appeal Site:***

No recent planning history.

**Enf. Ref. 7798** – Current enforcement action in respect of unauthorised development on the appeal site.

### ***Other Site in Area:***

**Reg. Ref. 15A/0314** – Planning permission was refused by the planning authority at a site at ‘The Yard’ Red Cow, Naas Road, Clondalkin, Dublin 22 for a development consisting of the storage of 68 no. 20 foot storage containers and 9 no. 40 foot storage containers, 1 no. 10 foot office unit and a toilet, vehicle storage and landscaping. The proposed units were intended for self service storage. The planning application was for a period of 5 years.

## 5.0 Policy Context

### 5.1. **South Dublin County Council Development Plan 2016-2022** (‘the Development Plan’)

5.1.1. The site of the proposed development is zoned ‘EE’ in the Development Plan. The stated objective of this zoning is ‘To provide for enterprise and employment related uses’.

5.1.2. **Policy ET3 Objective 5** seeks:

*To ensure that all Business Parks and Industrial areas are designed to the highest architectural and landscaping standards and that natural site features, such as watercourses, trees and hedgerows are retained and enhanced as an integral part of the scheme.*

5.1.3. **Section 11.2.5** states that a Design Statement accompanying development proposals in Enterprise and Employment ('EE') zones should address the criteria set out in Table 11.18

5.1.4. **Table 11.18** lists a schedule of criteria under headings including 'Access & Movement', 'Open Space & Landscape' and 'Built Form and Corporate Identity' geared towards providing for a high standard of design, finish and landscaping for new industrial area and for the upgrading of existing industrial areas.

5.1.5. **Policy Objective TM5, Objective 1** seeks:

*'To effectively manage the flow of through traffic along the strategic road network and maximise the efficient use of existing road resources'*

## 5.2. **Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG 2012)**

5.2.1. Section 2.5 sets out details of 'Required Development Plan Policy on Access to National Roads'. In relation to '*Lands Adjoining National Roads within 50 kph Speed Limits*' this section states:

*Access to national roads will be considered by planning authorities in accordance with normal road safety, traffic management and urban design criteria for built up areas.*

5.2.2. Section 2.7 relates to national roads and junctions. Section 2.7 states that interchanges and junctions are especially important elements of infrastructure and that Development Plans and Local Area Plans must take account of and manage such infrastructure.

## 5.3. **Natural Heritage Designations**

5.3.1. Glenasmole Valley Special Area of Conservation (SAC) (Site Code 001209) is c. 8km south-west of the site.

5.3.2. Wicklow Mountain SAC (Site Code 002122) is c.8km south of the site.

5.3.3. Wicklow Mountain SPA (Site Code 004040) is c.8.5 km south of the site.

5.3.4. South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) is c. 13 km. to the east of the site.

#### 5.4. **EIA Screening**

5.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore be excluded at preliminary examination and a screening determination is not required.

### 6.0 **The Appeal**

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

6.1.1. The submitted grounds of appeal include:

- There is nothing in Development Plan Policy TM5 that is relevant to the site. Only c. 6 vehicles access the site each day (10 to 12 traffic movements).
- The entrance is not onto the N7. It is on to a slip road off the N7. Access to a number of other commercial premises is from this slip road. The impact of the additional traffic associated with the development proposed for retention will be negligible.
- Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) states that in the case of '*Lands adjoining National Roads within 50 kph speed limits*' access be considered by planning authorities in accordance with normal road safety, traffic management and urban design criteria for built up areas.
- Retention of this development would not be prohibited under the provisions of Section 2.7 of the 2012 Guidelines. These provisions relate to considerations relating to road layout and capacity to be taken into consideration in the preparation of Development Plans.
- Buildings adjacent to the site are derelict and have fallen into disrepair. The adjacent site will be developed in the future and the appeal site will be

included in any future redevelopment of the area. While the application site is visible from the carriageway of the N& it does not stand out visually from surrounding land.

- A single development does not set a precedent.

## 6.2. Planning Authority Response

- 6.2.1. The planning authority per letter dated 19<sup>TH</sup>, September 2019 states that the planning authority confirms its decision and that the issues raised in the appeal have been covered in the Planner's Report.

## 7.0 Assessment

- 7.1.1. The main issues of this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Traffic Safety
- Visual amenity
- Nature of Use
- Appropriate Assessment

## 7.2. Traffic Safety

- 7.2.1. Reason No. 1 of the planning authority notification of decision to refuse planning permission for the retention of development states that the proposed development would have an adverse impact on the N7 national road and associated junction (contrary to Development Plan policy TM5). It is stated that the development also contravene Section 2.5 and 2.7 of the Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG 2012) ('the Guidelines).
- 7.2.2. The submitted grounds quote the provisions of Section 2.5 and 2.7 of the Guidelines. The grounds of appeal highlight that Section 2.5 provides that on 'Lands Adjoining National Roads within 50 kph speed limits' (as in the current instance) access to

roads will be considered by planning authorities in accordance with normal road safety, traffic management and urban design criteria for built up areas. It is further submitted that Section 2.7 sets out criteria to be considered in the context of the preparation of Development Plans in relation to planning for road capacity and the safety of interchanges and junctions. It is submitted that the provisions of Section 2.7 do not apply in respect of the proposed development which will avail of existing infrastructure.

7.2.3. The submitted grounds of appeal also argue that the development proposed for retention does not generate significant traffic movements into and out of the site and does not constitute a traffic hazard.

7.2.4. I note that the planning authority Roads Engineer has reported that the entrance serving the proposed development is substandard insofar as the turning radius is inadequate for left turning traffic onto the site. I would share this conclusion. Furthermore, vision splays in a westerly direction (the direction of large volumes of traffic travelling at up to the maximum speed limit) are inadequate. In this regard, notwithstanding the fact that the proposal utilises an existing entrance, I consider that the development proposed for retention involves an intensification of traffic turning movements which would endanger public safety by reason of a traffic hazard. I consider that to permit such an intensification would at this location would be contrary to Development Plan policy Objective TM5, Objective 1 which seeks 'To effectively manage the flow of through traffic along the strategic road network and maximise the efficient use of existing road resources'. Clearly, the allowing a development that constitutes a traffic hazard along this strategic road network (N7 and associated slip road) would not maximise the efficient use of existing road resources.

7.2.5. I accept the validity of the appellant's argument in respect of Section 2.5 of the Guidelines in respect of 'Lands Adjoining National Roads within 50kph speed limits. However, the Guidelines make it clear that while development can be considered within the 50 kph speed limit. Any decision in relation to the granting or refusal of planning permission must be based on considerations in relation to traffic safety. In the current instance, I believe that the development proposed for retention constitutes a traffic hazard.

7.2.6. I acknowledge the merits of the appellant's comments in relation to the provisions of Section 2/7 of the Guidelines. I concur with the appellant's view that Section 2.7 relates primarily to factors that must be considered in the planning and design of road infrastructure and junctions and the provision of capacity enhancements where necessary. It is difficult to conclude that an individual development would contravene the provisions as expressed in the wording of Section 2.7.

### 7.3. Visual Amenity

7.3.1. Reason No. 2 of the planning authority notification of decision to refuse planning permission for the proposed retention of development relates to the adverse impact which the existing development has on the visual character of the surrounding area. Furthermore, it is stated that the development contravenes Development Plan policy as set out in Policy ET£, Objective 5.

7.3.2. The submitted grounds of appeal highlight the fact that the area immediately surrounding the appeal site is characterised by the remnants of a derelict warehouse and other derelict or semi-derelict industrial lands. It is submitted that while the development proposed for retention is visible from the N7 it does not stand out visually given the character of the immediately surrounding area.

7.3.3. The appeal site is relatively elevated in relation to surrounding lands and the level of the N7 carriageway and slip road serving the site. The shipping containers that have been placed on the site are of a utilitarian character and the site itself lacks any significant landscaping or boundary treatment. Having inspected the site, I note that the development proposed for retention is clearly visible from vantage points along the east bound (in-bound) carriageway of the N7 and, in particular, from vantage points along the west bound (out-bound) carriageway of the N7. I consider that the development, given its utilitarian character, is visually intrusive at this location. Furthermore, signs proposed for retention are of a poor quality and design.

7.3.4. Development Plan policy as set out under ET3, Objective 5 seeks to achieve a high standard of design and landscaping of development within Enterprise & Employment zones. Criteria to help achieve this objective are set out in Section 11.2.5 and Table 11.18 of the Development Plan. I consider that the development proposed for retention performs very poorly in terms of these criteria and does not contribute in

any way to the achievement of this Development Plan objective. I consider that the appellant's argument that the poor quality of lands and the structures thereon on sites immediately adjoining and adjacent to the site constitute a valid ground for ignoring Development Plan policy has little merit. I accept that, as has been argued by the appellant, the site together with adjoining lands may be re-developed in the long term in accordance with a suitable development scheme. Nonetheless, I consider that any use (even a temporary use) of the appeal site while it awaits re-development should, at least, contribute in some way to the achievement of Development Plan policy in terms of upgrading the appearance of the site. This development proposed for retention fails to do this. In these circumstances, I consider that granting planning permission for the retention of the development would be unwarranted. Furthermore, I consider that granting planning permission for the retention of the development would set an undesirable precedent for further similar development in the future.

#### **7.4. Nature of Use**

7.4.1. Documentation on file relating to the on-going enforcement proceedings being pursued by the planning authority sets out the nature of the historic commercial use of the site and immediately surrounding lands. The appellant states that it is likely that the site together with the immediately adjoining lands are ripe for re-development and are likely to be re-developed at some (unspecified) future date.

7.4.2. In light of the historic use of the site and the recently documented vacant use of the site, I have considered the appropriateness of recommending that planning permission for the retention of the development be granted on a temporary basis and subject to the attachment of appropriately worded conditions in relation to landscaping and screening of the site. However, in light of the unsuitability of the existing entrance serving the site (traffic hazard) I consider that such a recommendation would be unwarranted.

#### **7.5. Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, no appropriate assessment issues arise and it is not considered 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.

## 8.0 Recommendation

8.1. I recommend that planning permission for the RETENTION of the existing development be REFUSED for the reasons and considerations as set out below.

### Reasons and Considerations

- (1) The development proposed for retention would lead to an increase in traffic turning movements onto and off a busy slip road linking with the National Primary Road (N7) along which traffic travels at up to the maximum speed limit. The access to the site via this slipway is substandard in that it lacks adequate vision splays in each direction. The proposed development would, thereby, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.
  
- (2) The development proposed for retention consisting of the location of shipping containers for use for storage purposes on a visually prominent and poorly landscaped site which is clearly visible from the adjacent National Primary Route (N7) would constitute haphazard development and would seriously injure the visual amenities of the area by reason of its visual dominance at this location. Furthermore, the proposed development would contravene Objective ET3, Objective 5 of the South Dublin County Development Plan 2016-2022 which seeks to ensure that all business parks and industrial areas are designed to the highest architectural and landscaping standards and would set an undesirable precedent for similar development in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Paddy Keogh  
Planning Inspector

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19<sup>th</sup>, December 2019