



An
Bord
Pleanála

Inspector's Report

ABP-306549-20

Development	Construction of office building over basement car park, incorporating the partially constructed ground floor of a previously permitted development (Plan File No. P07/585)
Location	Cannaboe , Ballinamore , Co. Leitrim
Planning Authority	Leitrim County Council
Planning Authority Reg. Ref.	19243
Applicant(s)	Remcoll 2 Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Ciaran Smyth
Observer(s)	None.
Date of Site Inspection	15 th May 2020.
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The site is located to the south east of Ballinamore town centre directly adjacent to the Ballinamore Bypass. The development site forms part of an existing mixed use development which remains partially complete. The proposed offices will be located within the north eastern corner of the development site adjacent to the existing surface car park.
- 1.2. The existing development comprises a 2/3 storey mixed use development with retail uses at ground floor and residential above. A number of retail/commercial units at ground floor are vacant at present. A large surface car park is located to the side and rear of the building and a basement carpark has been developed underneath the partially complete single storey units.

2.0 Proposed Development

- 2.1. It is proposed to construct a three-storey office building over the existing basement carpark, incorporating partially constructed ground floor development and all ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

Sligo County Council determined to approve permission for the proposed development subject to conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planners report was consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- District Engineer – no objection subject to standard conditions
- Building Control – no objection subject to compliance with Building Control.

- Fire Officer – no objection subject to provision of hydrants, and water supply capable of providing 20 litres per second.
- Water Services, Waste – There is an existing wastewater connection, conditions are specified for new wastewater pipe work.
- Water Services, Water supply – no comment as there is an existing connection.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

13 no. observations were received, the issues raised are outlined within the grounds of appeal.

4.0 Planning History

P04/1546 A 10 year permission was granted for a mixed use development as follows:

- Supermarket with service yard
- 5 retail units
- 2 office units
- 21 residential units
- Creche and play area
- 141 parking spaces
- Car showroom

P05/544 Permission was granted for the revision of P04/1546 and comprise the increase in office floor space through the decrease in circulation space. Overall floor area remained the same as originally permitted. Conversion of 2 storey office block to a 1 bed two storey duplex and minor elevational alterations.

P07/544 Permission was granted for the revisions to the above permission to include:

- Increase of floor area by 401sqm, change of use of creche to residential, provision of an additional retail unit.
- Changes will provide for a total of 25 no. residential units
- Extension to provide 6 no. retail units and 4 office units at first floor.

5.0 Policy Context

5.1. Development Plan

Leitrim County Development Plan 2015-2021

The lands are designated within the development plan as 'Mixed Use' within which a mix of residential and commercial activity takes place. The plan requires that buildings are designed and located so as to be capable of adaptation to a range of other uses. In determining the suitability of development within this zone regard shall be given to the environmental impact of the proposed development on neighbouring uses.

Ballinamore is identified as a 2A tier centre and it is envisaged that it will become one of the County's key towns, becoming the centres for and drivers of economic growth.

- OBJ 7 To seek the development of lands zoned 'Mixed Use' for commercial residential, health, community, educational, cultural, retail and related uses.

5.2. Natural Heritage Designations

The nearest Natura 2000 site to the proposed development is Cuilcagh - Anierin Uplands SAC which is located c. 6.9km north west of the development site.

5.3. EIA Screening

5.4. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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

This is a third-party appeal which has been prepared by Liam Madden Architect on behalf of Ciaran Smyth. The issues raised can be summarised as follows:

- Proposed scheme is a re-hash of previous schemes
- The original development ceased in 2007 and has been abandoned since.
- Concerns regarding the commercial track record of the applicant.
- There were 12 submissions made to application, citing an over supply and vacant office space in the town.
- The availability of commercial space must be independently assessed by ABP.
- The proposed development will be commenced and left abandoned.
- Fire safety works carried out to apartments constitute development.
- The apartments were near dereliction until the owner purchased them and are now occupied by refugees.
- Apartments that link into the proposed development were commenced without fire safety certificates.
- No permission for residential or refugee direct provision centre.
- The proposed 3 storey office block impacts a protected escape route serving the unauthorised occupied direct provision accommodation.
- The development contravenes the parent permission.
- ABP should consider whether any permission should issue until the existing development is made compliant.
- This is provided for in the P&D Act.
- The current building is unauthorised.
- No AA screening was asked for.
- Cumulative impact of all applications at this location has not been considered.

- The developer stated that the relief road was a private road, concerns are raised in relation to the ownership and maintenance of this road.
- How will access be provided if relief road is private.

6.2. Applicant Response

Meitheal Architects have prepared a response to the grounds of appeal which can be summarised as follows:

- The appellant is a frequent objector and the appeal should be considered vexatious.
- High court proceedings have been submitted which detail protests in relation to the use of existing apartments for people in emergency accommodation and refugees.
- The developer is proposing to invest significantly in the development and the surrounding area.

6.3. Planning Authority Response

Leitrim County Council have issued a response to the grounds of appeal which can be summarised as follows:

- No concerns in relation to fire safety were raised and this issue is a matter for the building regulations.
- The building is authorised and compliance has been submitted. A slight variation which resulted in a minor increase in floor area was noted and was not considered to be a material change to the development, retention permission was therefore not required.
- The planning authority carried out an AA screening.
- The proposed development would not increase the requirement for parking.
- The access road was required as a condition of planning and is currently the subject of a taking in charge application.

- The public have a right of access over the public road and all traffic laws are fully enforceable.
- The development is located on appropriately zoned lands and there is no requirement within the County Development Plan to submit a justification test for office accommodation.
- The status of the refugee direct provision centre was not a matter for consideration under this application.
- The planning authority considers the proposed development to be in accordance with the requirements of the county development plan.

6.4. **Observations**

- One late observation was received.

7.0 **Assessment**

7.1. This is a third-party appeal in relation to the decision of Leitrim County Council to permit a three-storey office development within a partially complete commercial development in Ballinamore. The proposed development is located within an area zoned as mixed use in which offices are permissible. The principle of the proposed development is therefore considered to be acceptable subject to compliance with the relevant policies and objectives of the Leitrim County Development Plan. I have reviewed the plans and particulars submitted and am satisfied that the issues for consideration before the board relate solely to the grounds of appeal, no other substantive issues arise. The issues can be summarised as follows:

- Principle of development
- Access & car parking
- Appropriate Assessment
- Other Matters

Principle of development

- 7.2. It is contended by the appellant that there is no need for additional office space within Ballinamore. The appellant purports that there are a number of vacant office developments in the town and that the proposed development will not be completed and occupied. It is stated within the grounds of appeal that the Board should undertake an assessment of existing vacancy levels in order to justify the proposed development.
- 7.3. As mentioned above the lands are zoned mixed use within the Leitrim County Development Plan within which office developments are permissible. The principle of the proposed development is therefore accepted. Ballinamore is identified as a 2A tier settlement, it is envisaged within the County Development Plan that the settlement will develop into a key town for the county and become a centre for and driver of economic growth. It is therefore the policy of the Council to promote the commercial growth of these settlements and ensure that there is a sufficient variety and supply of commercial property to accommodate various business needs in order to improve the attractiveness of such settlements to business.
- 7.4. Potential occupiers of such properties and the viability of these properties are a matter for the developer and not a matter that the Board can adjudicate on.
- 7.5. Whilst I note that the overall design of the proposed development is not a concern of the appellant, I nonetheless consider it important to note that the proposed design and layout of the proposal which is modern in appearance and proposes to incorporate high quality materials will bookend and tie into the existing development in an acceptable manner and will improve the overall visual amenity of the development.
- 7.6. Having regard to the foregoing I consider the principle and design of the proposed development to be acceptable and in accordance with the requirements of the Leitrim County Development Plan 2015-2021.

Access & car parking

- 7.7. Concerns have been raised within the grounds of appeal in relation to the ownership and right of access over the adjacent road. The Council have responded to these concerns stating that whilst the existing road is privately owned it is subject to a current application to be taken in charge by the Council. It is further stated that public access is permissible and as such access to the proposed development will not be restricted

or impacted upon. I have reviewed the access arrangements both within the plans submitted and whilst on site and note that the road is operating as a public road with unrestricted access. Having regard to the details submitted and the observations made by the Council I do not have concerns in relation to the proposed access arrangements to the development.

- 7.8. In relation to car parking, I note that the Leitrim County Development Plan requires 1 space per 25 metres of office space. The proposed development would therefore have a requirement for 98 spaces. I note that the previously permitted development was for retail at ground floor and office within the upper floors. A surplus of 6 space on top of what has been provided for within the original development is required which the applicant has provided.
- 7.9. Having regard to the foregoing I consider that the proposed access and carparking arrangements are acceptable and in accordance with the requirements of the Leitrim County Development Plan 2015-2021.

Appropriate Assessment

- 7.10. I note from the grounds of appeal that the appellant has raised concerns in relation to the failure of Leitrim County Council to request an AA screening document from the applicant. I further note the Council's response to the grounds of appeal in which it is stated that an appropriate assessment screening was carried out and screened out any likely significant effects.
- 7.11. The nearest Natura 2000 site from the development is the Cuilcagh - Anierin Uplands SAC which is located c. 6.9km north west of the development site. In the absence of any pathway to this site and having regard to the nature of the development which is an infill development on a brownfield site, its location in a serviced urban area, and the separation distance to any European site, 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.

Other Matters

- 7.12. A number of other matters are raised within the grounds of appeal in relation to the use of the existing apartments adjacent to the appeal site to accommodate refugees

and reference is made to the use of these units as a direct provision centre. These issues are not relevant to the consideration of this appeal.

7.13. Further reference is made to the issuing or lack thereof of fire certificates and compliance with building control regulations. These items are not planning related and are not relevant to the consideration of this appeal and cannot therefore be adjudicated on by the Board in the context of this appeal.

7.14. In relation to the legal status of the development and compliance with the parent permission I note that the Council has confirmed that all compliance has been agreed and there is no current enforcement in relation to the development. The fact that a permission has lapsed does not prohibit future applications for planning permission as per Section 34 of the Planning and Development Act and as such the developer was entitled to seek permission for the proposed development.

Conclusion

7.15. I have considered all of the items raised within the grounds of appeal and whilst I acknowledge the appellants concerns in relation to vacancy levels within the town centre, the development is nonetheless in accordance with the policies and objectives of the Leitrim County Development plan. The status of the existing development is not a matter for this appeal neither are items in relation to fire certificates and building control.

8.0 Recommendation

8.1. I recommend that permission is granted subject to the following conditions.

9.0 Reasons and Considerations

9.1. Having regard to the zoning objective of the site, the provisions of the Leitrim County Development Plan 2015-2021, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, or create a traffic hazard for road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area

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

Reason: In the interest of public health

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste and removal methods and offsite disposal of hazardous materials.

Reason: In the interests of public safety and residential amenity

5. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. No additional development shall take place above roof level including the incorporation of additional plant and equipment such as lift motors, air handling equipment, storage tanks or any other external plant other than those shown on the drawings which are the subject of the current approval or unless authorised by a prior grant of planning permission.

Reason: In the interest of visual amenities of the area.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

9. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Sarah Lynch
Planning Inspector

19th May 2020