



An
Bord
Pleanála

Inspector's Report

ABP-306623-20

Development	The removal of the existing mezzanine level and the subdivision of the unit into 2 no. separate retail units.
Location	Unit No. 2, Limerick One Shopping Park, Childers Road, Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	19/992
Applicant(s)	Irish Life Assurance PLC
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party V. Condition
Appellant(s)	Irish Life Assurance PLC
Observer(s)	None
Date of Site Inspection	29 th April 2020
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The appeal site is located in the Limerick One Shopping Park, approx. 2.4km east of Limerick City. The site, Unit 2 is located at the southern end of the retail park. It is currently occupied by Smyths Toy Superstore. There are a variety of uses with the retail park including Dunnes Stores in the centre of the development, a garden centre, Argos, Boots and a number of home furnishing and clothes stores. Opposite to the main terrace of units are a number of smaller units comprising fast food and coffee shops.
- 1.2. The retail park is accessed by 2 no. signal-controlled junction off Childers Road (R509). There is a large area of communal car parking area, with over 1,200 spaces, located to the west (front) of the retail units.

2.0 Proposed Development

- 2.1. It is proposed to remove an existing mezzanine level with a gross floor area of 487sqm within Unit 2 and subdivide the unit into 2 no. separate retail units (2A and 2B). Unit 2A would have a gross floor area of 1,097sqm and Unit 2B would have a gross floor area of 735sqm. The works include the provision of a new main entrance to the front of Unit 2B and the provision of a new good's inward door and roller shutter to the rear of Unit 2A.
- 2.2. The works also include the installation of new signage on the front façade and a new powder coated aluminium framed glazed curtain wall on the front façade and sliding entrance doors to Unit 2B. It is also proposed to provide a new terracotta tile rain screen cladding on part of Unit 2A.
- 2.3. ***Further information lodged 11th December 2019***

In response to a request for further information the applicant clarified that the end user of the proposed 2 no. retail units is unknown. However, it is not proposed to change the use of the retail units and the proposed units would continue to be used for comparison retail.

With regard to concerns raised regarding an increase in vehicular movements generated by the proposed development the applicant stated that additional traffic impacts are not anticipated as the removal of the mezzanine level result in a net decrease of over 20% of the floor area already permitted and in use.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was granted subject to 3 no conditions.

Condition 1: Clarified that permission was granted for the scheme submitted by way of further information on the 11th December 2019.

Condition 2: Required the 2 no. retail units to be used a retail warehousing only.

Condition 3: Required details of the signage to be agreed with the Planning Authority.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The initial Area Planners report raised some concerns regarding the proposed development and recommended that further information be sought to ensure the development was compliant with the retail warehousing use of the site and to ensure the development would not negatively impact on parking capacity within the overall retail park.

Following receipt of further information, the Area Planner considered that all concerns were fully addressed. It was recommended that permission be granted subject to the 3 no. conditions outlined above.

3.2.2. **Other Technical Reports**

Operations and Maintenance Services: The initial report recommended that further information be sought regarding (1) the end user of the units, and the potential impact

on traffic and car parking spaces and (2) details of public lighting within the car parking area. A final report is not on file.

Fire and Emergency Services: No objection

3.3. Prescribed Bodies

Irish Water: No objection

3.4. Third Party Observations

None

4.0 Planning History

Subject Site

PL30.219473, Reg. Ref. 06/770220: Retention permission was granted in 2007 for a mezzanine floor for storage use.

Parent Permission 03/770181: Permission granted in 2003 for a retail park development comprising a convenience and comparison goods store (gross floor area 8,302 sqm); 6 no. retail warehouse units and 1 no. ancillary garden centre with a combined gross floor area of 10,423 sqm; 2 no. comparison goods outlets (gross floor area of 3,716 sqm); 1 no. leisure and fitness centre incorporating leisure and ancillary uses at ground floor (2,090 sqm) and retail sports goods at first floor (2,090sqm); 2 no. restaurants (not 'drive thru'); 1 no. petrol filling station and associated forecourt shop; vehicular access from Childer's Road; 1,090 no. car parking spaces, landscaping and all associated development and site works on a site of 7.69ha.

Adjoining Site

Reg. Ref. 16/495: Permission was granted in 2016 for the part change of use of Unit 1 (gross floor area c. 240sqm) from retail to an ancillary café use.

5.0 Policy Context

5.1. Limerick City Development Plan, 2010 – 2016 (as extended)

The appeal site is located in an area zoned ZO.5 (A) – ‘General Mixed Use’ with the associated land use objective *to promote the development of mixed uses that serves an area greater than its immediate catchment and to ensure the creation of a vibrant and sustainable urban area*. The primary purpose of this zoning is to provide for a range of employment and related uses.

Policy R3 is also considered relevant: -

It is the policy of Limerick City Council to ensure that Limerick City Centre remains as the primary retail location within the Mid-West Region. In this regard the City Council will require all out of City Centre large retail proposals to demonstrate that they will not impact negatively on the vitality and viability of the City Centre by means of a sequential test.

5.2. National Guidance

Retail Planning Guidelines for Planning Authorities, 2005

5.3. Natural Heritage Designations

The appeal site is located approx. 1.7km south of the Lower River Shannon SAC (002165) and approx. 2.5km east of River Shannon and River Fergus Estuaries SPA (004077).

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against condition no. 2 which limits the use of the proposed 2 no. units to retail warehousing only. The applicant requests that the Board consider determining this appeal under section 139 of the Planning and Development Act, 2000 (as amended). The submission is summarised below: -

- The existing retail unit is a comparison retail use. No change of use was applied for in the application. The response to the request for further information noted that the current occupant, Smyth's Toys Superstore, would be vacating in April 2020 and the applicant wishes to subdivide the unit and continue with a comparison retail use. The use would not include restaurant types uses or convenience retail.
- Unit 2 and Unit 4 of the overall Limerick One Shopping Park were permitted as comparison stores in the parent permission (03/770181).
- The applicant considers that a full assessment was not carried out by the Planning Authority and no justification for the condition has been provided.
- It is also noted that the site is zoned for mixed use developments. All shop uses are permissible within this zoning objective. Retail warehousing is 'open for consideration'. The continuation of a comparison use would sustain the diverse mix of uses within the retail park, which include a garden centre, leisure uses and retail warehousing. A change to retail warehousing would diminish the mix of uses within the vicinity of the site.
- The development would result in a 20% of the permitted floor area and would not generate any additional traffic movements.
- It is acknowledged that retail policy would largely be supportive of the primacy of the city centre and restrictive in relation to new out of centre comparison outlets, however, this is a long-established permitted comparison use.

6.2. Planning Authority Response

None

7.0 **Assessment**

7.1. Having regard to the circumstances of this case, the site context and to the nature of the condition under appeal, which relates to the use of the retail unit, I am satisfied that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. I consider, therefore, that the appeal should be dealt with in accordance with Section 139 of the Planning and Development Act 2000 (as amended).

7.2. **Condition 2**

- 7.2.1. It is noted that 2 no. comparison goods units were permitted as part of the overall development of the retail park. However, the documentation relating to parent permission (Reg. Ref. 03/7700181) is not available, therefore, it is unclear which units the comparison use relates to. Condition no. 2 limits the retail use within the proposed 2 no. units to retail warehousing only. The applicant requests that this condition be omitted as the existing unit was granted permission under the parent permission 03/7700181 for a comparison retail unit. No evidence has been submitted with the appeal to indicate that the subject site was one of the 2 no. units previously approved for comparison retail.
- 7.2.2. The applicant has also stated that the existing unit has been in continuous comparison use since construction and the application for the subdivision of the unit, did not include a change of use. Having regard the size of the goods sold, the display and storage requirements and the availability of access to surface level car parking, it is my opinion that the characteristics of a Smyths Toy Store are similar to those of a Retail Warehouse. Therefore, the existing unit has not been operating as a comparison unit since its construction.
- 7.2.3. Notwithstanding the parent permission for the site, it is my view that having regard to the significant level of existing comparison retail units within the retail park, the proposed development would result in an excessive level of comparison retail outside of the city centre which would be contrary to Policy R3 to retain Limerick City Centre as the primary retail location within the Mid-West Region. It is, therefore, considered that condition no. 2 is warranted in this instance.

7.3. ***Appropriate Assessment***

Having regard to the nature and small scale of the proposed development within a serviced urban area and the distance from the nearest 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.

8.0 **Recommendation**

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the Planning Authority under subsection (1) of section 139 of the Planning and Development Act, 2000 (as amended), to ATTACH condition number 2.

9.0 **Reasons and Considerations**

Having regard to the existing use of the retail unit as a Smyths Toy Superstore, the quantity of existing comparison retail within Limerick One Shopping Park and the provisions of Policy R3 to retain Limerick City Centre as the primary retail location within the Mid-West Region, it is considered that removal condition 2, which limits the use of the proposed units to retail warehousing only, would impact negatively on the vitality and viability of the City Centre. Therefore, the planning authority's Condition 2 is warranted.

Elaine Power
Planning Inspector

16th July 2020