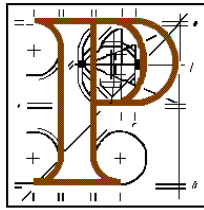


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

## Tipperary County

**Planning Register Reference Number: 16/600805**

An Bord Pleanála Reference Number: PL 92.247557

**APPEAL** by Stakelum's Hardware Limited care of Healy Partners Architects of The Mill, Glentworth Street, Limerick against the decision made on the 18th day of October, 2016 by Tipperary County Council to refuse permission for the proposed development.

**PROPOSED DEVELOPMENT:** Retention of authorised development for a period of three years on development as previously granted planning permission under An Bord Pleanála appeal reference number PL22.238797 and as described as Building Materials and Plant Yard/Compound at the entrance to Racecourse Retail Park, Bawntamenna, Thurles, County Tipperary.

## DECISION

**GRANT permission for the above proposed development in accordance with the plans and particulars lodged with the said council, based on the reasons and considerations under and subject to the conditions set out below.**

## MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## REASONS AND CONSIDERATIONS

Having regard to the mixed use zoning of the site as identified in the Thurles and Environs Development Plan 2009-2015 to the uses that are open for consideration in such mixed use areas, including general industrial and light industrial uses and to the current permitted commercial uses on adjacent site within this mixed use zone, it is considered that, subject to compliance with the conditions set out below, retention of the proposed temporary use of the site as a building materials and plant yard/compound would be acceptable in terms of the mixed use zoning and would not significantly impact on the residential and other amenities of the area. Furthermore, with regard to the reason for refusal by the planning authority on the grounds that the proposed development would materially contravene the development plan, it is considered that the objectives of the development plan are not clearly stated insofar as this development is concerned, in terms of potential conflicts between the mixed use zoning objective for this site, and the residential zoning objective of the neighbouring lands to the east and policy SERV14 of the development plan. The mixed use zoning objective for this site is “to provide and improve mixed use activities”. The residential zoning objective of the neighbouring lands is “to preserve and enhance existing residential amenity”. Policy SERV14 of the planning authority, as set out in the development plan, seeks to resist development which would give rise to unacceptable levels of environmental nuisance affecting areas beyond the site boundary, with such restrictions particularly applying to uses sensitive to such disturbance such as housing. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 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. The use of the premises as a building materials and plant yard/compound shall cease on or before the expiration of period of two years from the date of this Order, unless before the end of that period permission for the continuance of use beyond that date shall have been granted.

**Reason:** To facilitate the closure of the existing facility and/or the sourcing of a suitable alternative site and the relocation of the plant/yard compound.

3. The use of the site shall be in accordance with the details as submitted as a building materials and plant yard/compound. No change of that use shall take place without a prior grant of planning permission notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 and any statutory provision amending or replacing them.

**Reason:** To protect the amenities of property in the vicinity.

4. Within one month of the date of this Order, the timber fencing provided along the eastern boundary of the site shall be suitably repaired and reinstated to the requirements of the planning authority.

**Reason:** In the interest of public health and the visual amenities of the area.

5.
  - (a) Within one month of the date of this Order, the existing container located adjacent to the disused dwelling on the site shall be removed.
  - (b) There shall be no open storage of waste/recyclable materials on the southern part of the site adjacent to the disused dwelling.
  - (c) All goods, shall be stored only within the enclosed yard on the northern part of the site. No plant or materials shall be stored above a height of two metres.

**Reason:** In the interest of public health and the visual amenities of the area.

6. Within one month of the date of this Order, a detailed scheme of environmental improvements and landscaping measures shall be submitted to the planning authority for written agreement. The scheme shall include:
- (a) details of landscaping to the southern part of the site adjacent to the disused dwelling which shall incorporate planting of indigenous species, and
  - (b) planting within the buffer zone adjacent to the eastern boundary of the site.

The scheme shall include the timeframe, specific location and details of screening and details of ongoing care and management of such planting. Landscaping shall be completed in accordance with the agreed scheme within the first planting season following the date of this Order. Any plants which die, are removed or become seriously damaged or diseased, within a period of one year of the date of this Order shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

7. No signage, advertisement or advertisement structure, or other projecting elements, including flagpoles, shall be erected or displayed within the curtilage of the site in such a manner as to be visible from outside the site, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

8. Site operations, including deliveries, shall be carried out only between 0800 hours and 1900 hours Mondays to Fridays inclusive, between 0830 hours and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

9. (a) The noise level arising from the development, as measured at the nearest dwelling, shall not exceed:
- (i) LAeq,30 mins of 55 dB(A) during the period 0800 hours to 1900 hours Mondays to Fridays inclusive, and between 0830 hours to 1400 hours on Saturdays.
  - (ii) LAeq,15 mins of 45 dB(A) at any other time.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 “Assessment of Noise with respect of Community Response” as amended by ISO Recommendations R 1996 1 and 2 “Description and Measurement of Environmental Noise” as applicable.

If the noise contains a tonal element (for example, whine, hiss, screech or hum), or contains distinct impulses (bangs, clicks, clatters or thumps), or if the noise is otherwise irregular in character, a penalty of 5dB(A) shall be applied to the measured noise level and this increased level shall be used in assessing compliance with the specified levels.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

10. 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 within two months of the date of this order, 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.

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**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2017.**