



An
Bord
Pleanála

**Board Order
PL 92.248538**

Planning and Development Acts 2000 to 2017

Planning Authority: Tipperary County Council

Planning Register Reference Number: 16/600777

Appeal by Hugh Sweeney of Portnacasky, Black Road, Newport, County Tipperary against the decision made on the 26th day of April, 2017 by Tipperary County Council to grant subject to conditions a permission to Tom Ryan care of PLM Architects of 15 Father Mathew Quay, Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: The construction of two number commercial/light industrial units each consisting of a ground floor (115 square metres) and part first floor mezzanine (47 square metres) and all necessary ancillary site works associated with the above at Ryan's Centra and Fuel Sales Forecourt, Limerick Road, Portryan, Newport, County Tipperary.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars 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 land use zoning of the appeal site, the Board was satisfied that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the intended uses for car servicing/valeting and tyre fitting/repairing as stated in the further information submitted to the planning authority on the 31st day of March 2017, and not for retail uses or uses ancillary to the existing retail activity on site.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 31st day of March 2017, 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 development shall be restricted to use as “light industrial building” only, as defined by Article 5 (1) of Part 2 of the Planning and Development Regulations 2001, as amended. The development shall not be used for retail purposes, or ancillary to retailing.

Reason: In the interest of clarity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. In particular, no surface water shall discharge onto the public road or adjoining properties.

Reason: In the interest of public health, prevention of pollution, and traffic safety.

4. No development shall commence on site until the developer has entered into a connection agreement with Irish Water for water and wastewater services.

Reason: In the interest of the proper planning and sustainable development.

5. Prior to the commencement of construction of the development, the rear (southern) boundary shall be identified by the erection of a concrete post and plinth wall with timber hit and miss type fencing for the full extent of this boundary to a height of 1.8 metres.

Reason: In the interests of orderly development and in the interest of visual amenity.

6. Prior to commencement of development, details of the materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of orderly development and visual amenity of the area.

7. Details of road signage, and proposals for traffic management within and at the site entrance, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

8. Construction and operation of the development shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

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

9. The noise levels generated during the operation of the development shall not exceed 55 dB(A) when measured at the boundary of the site. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development.

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

10. Any materials or wastes associated with the development shall be stored internally or within the storage compound to the rear of the existing retail development on the site. Prior to commencement of development, this storage compound shall be bounded by the erection of a concrete post and plinth wall with timber hit and miss type fencing/gate, as denoted on the Site Layout submitted to the planning authority on the 31st day of March, 2017, to a height of between 1.2 and 1.8 metres. This area shall not be roofed.

Reason: In the interest of visual amenity.

11. 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.

12. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the extension of the existing footpath west along the R503 Limerick Road to link up with the existing footpath at the boundary of the development site. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

Dated this day of 2017