



An  
Bord  
Pleanála

## Board Order PL 11.249190

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### Planning and Development Acts 2000 to 2017

**Planning Authority: Laois County Council**

**Planning Register Reference Number: 17/327**

**Appeal** by Anne and Edward Harvey of 5 Lord Edward Street, Mountmellick, County Laois against the decision made on the 11<sup>th</sup> day of August, 2017 by Laois County Council to grant subject to conditions a permission to Noel Delaney care of Horan DMC of 32A Patrick Street, Mountmellick, County Laois in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Retention of the use of the structure permitted for storage under planning register reference number 87/49 (223 square metres) as a commercial storage facility for bouncy castles and one number ice cream van, the adjoining structure to the east as built (91 square metres) along with use as a storage and ancillary repair facility (sewing pit) and storage of one number ice cream van, the lean-to concrete block structure as built (25 square metres), the concrete surface yard (365 square metres) to facilitate parking of two number commercial vehicles for transporting bouncy castles, and the small outdoor toilet structure (6.5 square metres), all at Lord Edward Street, Mountmellick, County Laois.

## **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 permission granted under planning register reference number 49/87, which authorised a shed for use as a warehouse for furniture on the site,
- the nature of the proposed storage use now applied for, which is not dissimilar in nature to the permitted use,
- the scale and design of the extensions carried out to the main shed which are considered acceptable,
- the provisions of the Mountmellick Local Area Plan 2012-2018, under which extension of existing and permitted 'non-conforming' uses is open to consideration, and
- the submissions made in connection with the planning application and appeal,

it is considered that, subject to compliance with the conditions set out below, the proposed change of use (on a temporary five-year basis) and physical structures for retention are acceptable and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would not, therefore, be contrary to the proper planning and sustainable development of the area.

## Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 4<sup>th</sup> day of October, 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 and the development shall be retained and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the development proposed for retention shall be restricted to the ice cream and bouncy castle business as specified in the lodged documentation, unless otherwise authorised by a prior grant of planning permission.
- (b) Within two months of the date of this order, full details regarding the total usage of the commercial storage operations from the shed/warehouse structure shall be submitted to and agreed in writing with the planning authority.
- (c) There shall be no retail sales from the site.

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

3. Unless otherwise permitted by a further grant of permission, the proposed use of the premises as set out in condition number 2 above shall expire after a period of five years from the date of this order, at which time the permitted use of the premises shall revert to the original permitted use as a warehouse for furniture.

**Reason:** Having regard to the planning history of the site, the land use zoning of the site and the pattern of development in the area, it is considered appropriate to enable the acceptability of the use hereby permitted to be reviewed in light of the circumstances pertaining at the time, so as to ensure the residential amenities of the area are being adequately protected.

4. The development proposed for retention shall be amended as follows:
  - (a) The toilet block is not permitted and shall be removed from site within two months of the date of this order and revised plans shall be submitted to the planning authority showing the toilet facilities located within the commercial warehouse building.
  - (b) The floodlight shall be omitted and removed from site.
  - (c) Details of any lighting to be provided on site shall be submitted to the planning authority.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority within two months of the date of this order.

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

5. The activities on site shall be carried out only between the hours of 0800 to 2000 Mondays to Sunday and on 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.

6. The noise level shall not exceed 55 dB(A) rated sound level, as measured at the nearest dwelling or at any point along 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 within two months of the date of this order.

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

7. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity and in order to allow the planning authority to assesses the impact of any such advertisement or structure on the amenities of the area.

8. (a) Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.
- (b) There shall be no washing of bouncy castles or of ice cream vans on-site.
- (c) Details including the locations of silt/oil/fuel interceptors shall be provided.

Details in this regard shall be submitted to and agreed in writing with the planning authority within two months of the date of this order.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

- 9 (a) No display or storage of goods, produce, waste, plant, packaging or crates, machinery or equipment shall be stacked or stored on this site at any time except within such buildings or storage areas as may be agreed in writing in advance with the planning authority.
- (b) All works shall be carried out within the confines of the building.

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

10. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority within two months of the date of this order. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

