



An
Bord
Pleanála

Board Order
ABP-313906-22

Planning and Development Acts 2000 to 2022

Planning Authority: Cork City Council

Planning Register Reference Number: 21/40518

Appeal by Lee Garage Cork Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin against the decision made on the 31st day of May, 2022 by Cork City Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: (1) Demolition of existing amenity shop forming part of existing filling station; (2) Change of use of part of existing car show room to new forecourt convenience shop ancillary to existing filling station, with internal alterations to provide the following areas: ancillary retail area (99.8 square metres), including off-licence use ancillary to the primary retail use, ancillary cafe deli food offer counter and food prep area, customer seating area, staff amenities, public amenities, manager office, ATM, fuel sale counter, food store and plant room; (3) Construction of proposed extension to front of existing building to accommodate new customer seating area; (4) Minor alterations to existing elevations; (5) New parking layout to include provision of E-car parking spaces, motorcycle parking spaces and bicycles parking area; (6) Construction of stand-alone bin storage outbuilding and stand-alone MV substation building; (7) Proposed alterations to existing forecourt canopy; (8) All associated site works. All at Lee Garage, Model Farm Road, Cork.

Decision

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 said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to AMEND condition number 2 (a) so that it shall be as follows for the reason set out.

2. (a) The total net retail space of the forecourt shop inclusive of any retail and off-licence and excluding the café/delicatessen area and associated seating area shall not exceed 100 square metres of floor area. Revised plans showing the necessary alterations shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development and should generally be in accordance with DL Group Drawing Number 53021/PS 'Proposed Floor Plan Breakdown of Uses', Revision A, dated 23rd day of June, 2022, as submitted with the appeal on the 24th day of June, 2022.

Reason: To comply with national policy, as set down in the Retail Planning Guidelines for Planning Authorities issued by the Department of Environment, Community and Local Government in April 2012 and with the Cork City Development Plan 2022 - 2028.

P.C.

Reasons and Considerations

The Board noted that the proposed café/deli is separated from the shop by a common circulation area and is also served by separate till points and seating area as demonstrated on Drawing Number 53021/PS (Proposed Floor Plan Breakdown of Uses), Revision A dated 23rd day of June, 2022.

The Board also noted that the net retail floorspace, as defined in the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in April 2012, excludes cafés and the floorspace cap for motor fuel stations refers to the 'shop' only. The definition of a shop is set out in the Planning and Development Regulations, 2001, as amended, and in the current context, includes 'a structure used for the retail sale of goods.' Taking these matters into account, the Board is satisfied that the café element of the proposed development should be excluded from the calculation of the total net retail floorspace and is not subject to a limit of 100 square metres.

The Board is also satisfied that the shop and café would function to provide local services as part of the normal ancillary service provided within motor fuel stations serving the needs of motorists, and would be in accordance with the provisions of the Cork City Development Plan 2022 - 2028, specifically Section 11.184 in respect of fuel filling stations, and with Section 4.11.9 of the Retail Planning Guidelines for Planning Authorities, and overall the Board is satisfied that, with the inclusion of the amended condition 2(a), 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 attach condition number 2, as set out in the planning authority's decision, and largely on the basis that the forecourt shop, delicatessen area, seating area and off-licence are all included in the calculation of the retail floorspace and exceed 100 square metres of net floor space, the Board did not agree that the net retail floorspace is meant to include the café/deli floor space in any such calculation.

In this regard, The Board noted that the proposed café/deli is separated from the shop by a common circulation area and is also served by separate till points and seating area as demonstrated on Drawing Number 53021/PS (Proposed Floor Plan Breakdown of Uses), Revision A dated 23rd day of June, 2022.

Patricia Calleary



Patricia Calleary

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 19 day of *September* 2023.