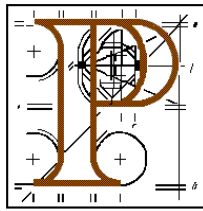


An Bord Pleanála



Inspector's Report

PL02.245505

DEVELOPMENT: Permission to convert existing premises known as 'The Bent Elbow' to fully serviced auto workshop with alterations to existing plan, elevations and all ancillary works, at Knocknagillagh, New Inn, County Cavan.

PLANNING APPLICATION

Planning Authority: Cavan County Council

Planning Authority Reg. No.: 15/272

Applicant: Phelim McCabe

Application Type: Permission

Planning Authority Decision: **REFUSE PERMISSION**
for Reasons and Considerations (2)

APPEAL

Appellant: Phelim McCabe

Type of Appeal: **FIRST PARTY**

Observer: None

DATE OF SITE INSPECTION: 4th December, 2015.

INSPECTOR: Dermot Kelly

1. SITE LOCATION

The subject site is located at The Bent Elbow, Knocknagillagh, New Inn, County Cavan, as indicated on **APPENDIX A - LOCATION MAP**.

2. SITE DESCRIPTION

2.1 The subject site lands at The Bent Elbow, Knocknagillagh, County Cavan are approximately 0.23 hectares in area and include the disused The Bent Elbow public house/restaurant premises (area 413 square metres) on the eastern side of the N3 Cavan – Dublin National Primary Road at a location where the maximum speed limit of 100 kph applies.

2.2 The Planning Report for the Planning Authority stated as follows:
'This is an existing public house known as the Bent Elbow which is located on the N3 at New Inn. The public house is not currently open for use. Adjacent to the site to the south is a house and an old garage and then a church'.

2.3 The attached Photographs in **APPENDIX B – PHOTOGRAPHS** (including Key Plan which indicates the approximate Photograph locations) illustrate the nature of the subject site and its context.

3. PROPOSED DEVELOPMENT

3.1 Planning Application

- The proposed development comprises as specified in the Public Notices: Permission to convert existing premises known as 'The Bent Elbow' to fully serviced auto workshop with alterations to existing plan, elevations and all ancillary works, at Knocknagillagh, New Inn, County Cavan.
- The Planning Report for the Planning Authority stated:
'Permission is being sought for a change of use to an auto workshop. No changes proposed to front façade or to sides. Change to rear – proposed mechanical roller shutter door. Internal building will contain office, 2 no. toilets, 1 no. disabled toilet, main garage area and staff kitchen'.

- The Architect's Report submitted with the planning application stated: 'The proposed changes to The Bent Elbow will convert the existing public house and restaurant to an auto workshop. The changes will greatly reduce the flow of traffic in and out of the site. As the public house and restaurant originally catered for one hundred plus people with approximately ten staff at any time whilst the proposed auto workshop will employ approximately three staff and have a considerably less footfall, all of which will be within normal office hours as opposed to the previous late opening hours. The proposed works will have considerably less impact on the site than the public house and restaurant, the workshop will not be lit to the same extent at night and signage will be reduced'.

4. NOTIFICATION OF DECISION OF PLANNING AUTHORITY - Submissions and Relevant Reports

4.1 Submission of National Roads Authority

The Submission received is noted and included as follows:

'The Authority has examined the above application and considers that it is at variance with official policy in relation to control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as the proposed development by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network.....'.

4.2 Roads Design Report

- This report, dated 20th August, 2015 included as follows: 'The above application has been reviewed by the Road Design Office. The proposed access is located along the N3 National Primary Road at a location where the maximum speed limit of 100kph applies. The application is therefore at variance with NRA policy and is also at odds with Objective PI 022 of the County Development Plan '*To restrict accesses onto National Roads along sections of road where the speed limit exceeds 60km per hour and to restrict the intensification of any existing accesses in such locations, except in exceptional circumstances, as defined by Section 2.6 of the DECLG 'Spatial Planning and National Roads Guidelines', in line with DECLG policy and as supported by the NRA*', and also as follows:

‘Note: Concern exists that while the development may not be a generator of traffic volumes in excess of the existing ‘Bent Elbow’ development, the nature and type of traffic that would be generated by the proposed development is unsuitable to a rural area where the maximum national road speed limit of 100kph exists. In addition, it is felt that trips to the proposed development are more likely to be wholly new to the network while the existing development would be likely to attract a greater proportion of pass-by trips of vehicles already on the adjacent road network and passing the development site in any event’.

- It was recommended that Further Information be requested in regard to the proposed development.

4.3 Planning Report for Planning Authority

- The Planning Report, dated 20th August, 2015 documented the Planning History of the subject site/area and noted and summarised the Submission of the National Roads Authority and the Road Design Report for the Planning Authority.
- Relevant provisions of the 2014-2020 Cavan County Development Plan were noted including Section 3.6 – ‘Rural Enterprises’:
‘This site is located on the national road where 100kph speed limit exists. The proposed use (auto workshop) is not included in the above list of suitable rural enterprises. It is considered that this rural area outside of the development envelope of any town/village in a 100kph stretch of national road is not considered to be suitable location for such a use. The Development Plan policy for Rural Enterprises states that such enterprises must have a rural focus. Proposed use is for an auto workshop which does not have a rural focus and from a planning perspective this type of use would be better suited in an urban location. Notwithstanding the existing public house on the site, it is considered this location is (not) suitable for this type of use’.
- Refusal of permission was recommended for the Reasons and Considerations (2) as stated in the notification of decision of the Planning Authority.

4.4 Notification of Decision of Planning Authority

- The Planning Authority, Cavan County Council, issued a notification of decision to **REFUSE PERMISSION** for the proposed development for Reasons and Considerations (2) as follows:
 1. Having regard to the rural area of the proposed site, it is considered that the proposed development is contrary to the policies and objectives of 3.6 Rural Enterprises section of the Cavan County Development Plan 2014-2020. Proposed use (auto workshop) does not have a rural focus and as such is not considered suitable in a rural location, notwithstanding the current use on the site.
 2. Having regard to the location of the proposed development on the N3, National Road where the 100kph speed limit exists, it is considered that the proposed development is at variance with national policy Spatial Planning and National Roads, 2012 and that the proposed development would by itself, or by precedent it would set, would adversely affect the operation and safety of the national road network.

5. APPEAL GROUNDS

First Party Appeal

The First Party Appeal Grounds stated regarding Reason No. 1:

- 'Item one of the reasons set out by Cavan County Council states that according to 'item 3.6 Rural Enterprises Section of the Cavan County Development Plan 2014-2020, a proposed auto workshop does not have a rural focus and as such is not considered suitable in a rural location', it is the intention of the client to provide servicing and repairs of farm machinery and as a result it is our opinion that the 'auto workshop' does have a rural focus and as such is considered suitable in a rural location'.
- In regard to the Second Reason for Refusal was submitted:
'We would argue that the proposed development will significantly reduce the road traffic impact from the site as change of use from a 120 seated restaurant and public house to an 'auto repair workshop' will significantly reduce the amount of traffic using the site. As a result, the proposed development will not adversely affect the operation and safety of the national road network'.

6. APPEAL RESPONSES

6.1 Appeal Observation

No Appeal Observation was received.

6.2 Planning Authority Appeal Response

- This Appeal Response received 16th October, 2015 included in regard to Reason No. 1 and Reason No. 2 respectively as follows:
'Permission was sought to change the use to a fully serviced auto workshop. No other details were given in the planning application on exact use of the auto workshop, but the drawings submitted do have pictures of cars on them and the photomontage indicates cars parked outside. The definition of an auto workshop would be a workshop for repair of cars. There was no reference made anywhere in the planning application to repair of farm machinery. This application was assessed on the basis of the information submitted i.e. auto workshop and not on the basis of repair of farm machinery. As such the Planning Authority's refusal reason no. 1 remains', and

'No information was provided with the application to fully assess the traffic impact. Details on sightlines not indicated. No Traffic and Transport Assessment or Road Safety Audit provided. No details on expected traffic movements. As noted in Road Design Report dated 20th August, 2015 the nature and type of traffic that would be generated by the proposed development is unsuitable to a rural area where the maximum speed limits applies. Also trips to the proposed development are more likely to be wholly new to the network while existing development is likely to attract a greater proportion of passer by trips already on road network. The proposed change of use was assessed on its own merits and not in comparison to the previous use of the site. Refusal reason no. 2 still remains'.

- Under 'Contingency submission' was scheduled Conditions to be included in any grant of permission for the proposed development.

7. PLANNING HISTORY

The Planning Report for the Planning Authority documented the Planning History of the subject site/area as follows:

94/111 – Phelim McCabe applied for permission to provide living accommodation to the Bent Elbow accommodation – no decision made.

92/19724 – Phelim McCabe granted permission to retain existing extension to the Bent Elbow.

641777 – Laurence Smith refused permission to erect bar and lounge.

649045 – Laurence Smith granted permission to erect top room extension and revisions to proposed public house.

647847 – Laurence Smith refused permission to erect general store and public house.

8314164 – Laurence Smithy refused permission to erect new shop and convert existing shop into dwellinghouse, erect new garage.

8515734 – Laurence Smithy retain existing underground storage tanks.

8. DEVELOPMENT PLAN / GUIDELINES

- 8.1 The provisions of the *2014-2020 Cavan County Development Plan* have been considered. The Planning Report for the Planning Authority documented relevant provisions in the Development Plan as follows:
Development Plan Policy – Cavan County Development Plan 2014-2020 Section 3.6 – Rural Enterprises

Small scale enterprises in rural locations have the potential to contribute to the economy of rural areas by providing employment locally which helps to maintain population levels. They also contribute to the economy of the county providing services, employment and farm produce to towns and villages. Such enterprises must have a rural focus and should not have negative impacts on the environment, community or rural character of the area.

Some rural enterprises considered suitable are:

Agriculture, horticulture, forestry.

Tourism related enterprises.

Agricultural related industry, involving processing of farm produce.

Businesses directly related to farming e.g. servicing and repair of farm machinery, land reclamation, drainage works, agricultural contracting etc.

Food production and processing.

Home-based employment of appropriate type, size and scale subject, at all times, to the consideration of the proper planning and sustainable development of the area.

Rural resources based enterprises.

In relation to National Roads, the policy of the Planning Authority is to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to National Roads to which speed limits greater than 60kmh apply.

Policy EDP5 – Encourage the sustainable development of rural enterprises within the County.

Objective ED011 – All applications for enterprise development in rural areas must be accompanied by an assessment of impacts on the environment, residential amenities and the rural character of the area and contain details pertaining to safe access and egress.

Section 4.1.5 – ‘National Roads’ including as follows:

Objective PI 022 – To restrict accesses onto National Roads along sections of road where the speed limit exceeds 60km per hour and to restrict the intensification of any existing accesses in such locations, except in exceptional circumstances, as defined by Section 26 of the DECLG ‘Spatial Planning and National Roads Guidelines’ in line with DECLG policy and as supported by the NRA.

Chapter 10 – Development Management Standards including under Section 10.14.10 – Roads as follows:

National Roads

National policy in relation to development involving access to national roads and development along national primary and national secondary roads is set out in the ‘Spatial Planning and National Roads Guidelines’ published by the DECLG in January, 2012. The Guidelines state that ‘The policy of the Planning Authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant’.

DMO21

To protect and maximise the potential of the county’s national primary and secondary roads as key strategic infrastructure vital to the county’s continued economic development by preventing ribbon development or random one-off housing.

DMO22

To ensure that future development affecting national primary or secondary roads shall be assessed in accordance with the guidance given in the document 'Spatial Planning and National Roads – Guidelines for Planning Authorities', January, 2012'.

- 8.2** The '*Spatial Planning and National Roads – Guidelines for Planning Authorities*' published by the Department of the Environment, Community and Local Government in 2012, have also been noted including the following provisions:

2.5 – Required Development Plan Policy on Access to National Roads

With regards to access to national roads, all development plans and any relevant local area plans must implement the policy approaches outlined below.

Lands adjoining National Roads to which speed limits greater than 60kmh apply:

The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant'.

9. PLANNING ASSESSMENT – Issues and Evaluation

Having regard to the above and having inspected the site and having reviewed all documents on file, the following is my assessment of this case where the major planning issues for consideration are as follows:

Proposed Development and First Party Appeal Grounds

- The subject site lands at The Bent Elbow, Knocknagillagh, County Cavan are approximately 0.23 hectares in area and include the disused The Bent Elbow public house/restaurant premises (area 413 square metres) on the eastern side of the N3 Cavan – Dublin National Primary Road at a location where the maximum speed limit of 100 kph applies.
- The proposed development comprises as specified in the Public Notices: Permission to convert existing premises known as 'The Bent Elbow' to fully serviced auto workshop with alterations to existing plan, elevations and all ancillary works, at Knocknagillagh, New Inn, County Cavan.

- I note the *Roads Design Report for the Planning Authority*:
 ‘The proposed access is located along the N3 National Primary Road at a location where the maximum speed limit of 100kph applies. The application is therefore at variance with NRA policy and is also at odds with Objective PI 022 of the County Development Plan ‘*To restrict accesses onto National Roads along sections of road where the speed limit exceeds 60km per hour and to restrict the intensification of any existing accesses in such locations, except in exceptional circumstances.....*’, and also
 ‘Note: Concern exists that while the development may not be a generator of traffic volumes in excess of the existing ‘Bent Elbow’ development, *the nature and type of traffic that would be generated by the proposed development is unsuitable to a rural area where the maximum national road speed limit of 100kph exists*’.

- I note the *Planning Report for the Planning Authority* which included stating that ‘the proposed use (auto workshop)’ was not one of the rural enterprise uses considered ‘suitable’ in rural areas under Section 3.6 – ‘Rural Enterprise’ in the Development Plan:
 ‘It is considered that this rural area outside of the development envelope of any town/village in a 100kph stretch of national road is not considered to be suitable location for such a use’.

- The Planning Authority, Cavan County Council, issued a notification of decision to **REFUSE PERMISSION** for the proposed development for Reasons and Considerations (2) as follows:
 1. Having regard to the rural area of the proposed site, it is considered that the proposed development is contrary to the policies and objectives of 3.6 Rural Enterprises section of the Cavan County Development Plan 2014-2020. Proposed use (auto workshop) does not have a rural focus and as such is not considered suitable in a rural location, notwithstanding the current use on the site.
 2. Having regard to the location of the proposed development on the N3, National Road where the 100kph speed limit exists, it is considered that the proposed development is at variance with national policy Spatial Planning and National Roads, 2012 and that the proposed development would by itself, or by precedent it would set, would adversely affect the operation and safety of the national road network.

- I note the subsequent *First Party Appeal Grounds* which included stating in regard to the *First Reason of Refusal* that ‘it is the intention of the client to provide servicing and repairs of farm

machinery and as a result it is our opinion that the 'auto workshop' does have a rural focus and as such is considered suitable in a rural location'.

- However the subsequent *Planning Authority Appeal Response* noted that the submitted planning application included drawings indicating that a car repairs workshop was proposed and not *servicing and repair of farm machinery* – which I note would qualify as a 'suitable use' in a rural area under Section 3.6 'Rural Enterprises' in the Development Plan.
- The *Appeal Grounds* stated in regard to the Refusal Reason No. 2: 'We would argue that the proposed development will significantly reduce the road traffic impact from the site as change of use from a 120 seated restaurant and public house to an 'auto repair workshop' will significantly reduce the amount of traffic using the site. As a result, the proposed development will not adversely affect the operation and safety of the national road network'.
- The *Planning Authority Appeal Response* included submitting that 'the nature and type of traffic that would be generated by the proposed development is unsuitable to a rural area where the maximum speed limits applies. Also trips to the proposed development are more likely to be wholly new to the network while existing development is likely to attract a greater proportion of passer by trips already on road network. The proposed change of use was assessed on its own merits and not in comparison to the previous use of the site. Refusal reason no. 2 still remains'.
- In regard to the above varying submissions on file I note the provisions of *Section 4.1.5 – 'National Roads' Objective PI 022* and *Section 3.6 – 'Rural Enterprises'* in the Development Plan: Objective PI 022 – To restrict accesses onto National Roads along sections of road where the speed limit exceeds 60km per hour *and to restrict the intensification of any existing accesses in such locations, except in exceptional circumstances.....*, and Section 3.6 including: *In relation to National Roads, the policy of the Planning Authority is to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to National Roads to which speed limits greater than 60kmh apply*'.

- I note further the provisions of *Section 10.14.10 – National Roads*: ‘National policy in relation to development involving access to national roads and development along national primary and national secondary roads is set out in the ‘Spatial Planning and National Roads Guidelines’ published by the DECLG in January, 2012. *The Guidelines state that ‘The policy of the Planning Authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply.* This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant’.
- The ‘*Spatial Planning and National Roads – Guidelines for Planning Authorities*’ published by the Department of the Environment, Community and Local Government in 2012, have been noted including *Section 2.5 – ‘Required Development Plan Policy on Access to National Roads’*:
‘With regards to access to national roads, all development plans and any relevant local area plans must implement the policy approaches outlined below.
Lands adjoining National Roads to which speed limits greater than 60kmh apply:
The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply’.
- On site inspection I observed that the relevant maximum speed limit for the N3 National Primary Road which fronts the subject site is 100kph, see Photographs in Appendix B – whereas Lavey village to the north along the N3 has a 50kph maximum speed limit zone.
- The N3 National Primary Road at the subject site frontage was heavily-trafficked during the course of the site inspection and many vehicles appeared to be travelling close to the maximum speed limit of 100kph along this straight stretch of the N3 National Primary Road at Knocknagillagh, New Inn, County Cavan.
- I note the submitted *Architect’s Report* that the proposed development would ‘greatly reduce the flow of traffic in and out of the site’ as specified and also ‘the proposed works will have considerably less impact on the site than the public house and

restaurant, the workshop will not be lit to the same extent at night and signage will be reduced’.

- However I concur with the *Planning Report for the Planning Authority* where stated that ‘it is considered that this rural area outside of the development envelope of any town/village in a 100kph stretch of national road is not considered to be a suitable location for such a use’.
- I also concur with the *Roads Design Report for the Planning Authority* where stated that ‘while the development may not be a generator of traffic volumes in excess of the existing ‘Bent Elbow’ development, *the nature and type of traffic that would be generated by the proposed development is unsuitable to a rural area where the maximum national road speed limit of 100kph exists’.*
- The *Submission of the National Roads Authority* including stating: ‘The Authority has examined the above application and considers that it is at variance with official policy in relation to control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as the proposed development by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network.....’
- In my opinion further to site inspection, the proposed development of a fully-serviced auto workshop as specified in the public notices on the subject site in this location in a rural area at Knocknagillagh – where the site fronts onto the heavily-trafficked National Primary Road N3 in a location where the maximum speed limit of 100kph applies – should be refused permission for reasons as set out hereunder in contravention of the relevant provisions of the 2014-2020 Cavan County Development Plan in particular Objective PI 022 under Section 4.15 – ‘National Roads’ ‘to restrict access onto National Roads along sections of road where the speed limit exceeds 60 km per hour’ and the Spatial Planning and National Roads Guidelines for Planning Authorities 2012, and the Submission of the National Roads Authority is noted in this regard.

Appropriate Assessment

Having regard to the location of the subject site and to the nature and scale of the proposed development, I consider that no Appropriate Assessment issues arise in this case. It is not considered that the proposed development either individually or in combination with other plans or projects, would be likely to have a significant effect on a European Site.

10. CONCLUSIONS AND RECOMMENDATION

In conclusion, further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal, and including the site inspection, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area, having regard to the relevant provisions of the 2014-2020 Cavan County Development Plan which are considered reasonable. Accordingly, I recommend that permission be refused for the proposed development for the Reasons and Considerations stated in the Schedule below.

DECISION

REFUSE permission for the proposed development for the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS

The proposed development of a fully-serviced auto workshop as specified in the public notices in this rural area at Knocknagillagh, New Inn, County Cavan on lands which directly front and access onto the heavily-trafficked Cavan – Dublin N3 National Primary Road in a location where the maximum speed limit of 100kph applies, is not a ‘suitable’ rural enterprise at this location under the relevant provisions of Section 3.6 – ‘Rural Enterprises’ of the 2014-2020 Cavan County Development Plan. The proposed development by reason of the nature of the traffic which would be generated by the proposed auto workshop development, would contravene Objective PI 022 under Section 4.15 – ‘National Roads’ in the Development Plan ‘to restrict accesses onto National Roads along sections of road where the speed limit exceeds 60km per hour’, and also contravene in this regard the Spatial Planning and National Roads – Guidelines for Planning Authorities published by the Department of Environment, Community and Local Government in 2012, and the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

DERMOT KELLY
SENIOR PLANNING INSPECTOR

22nd December, 2015.

sg

APPENDIX A - LOCATION MAP
APPENDIX B - PHOTOGRAPHS (incl. KEY PLAN)
APPENDIX C - DEVELOPMENT PLAN / GUIDELINES