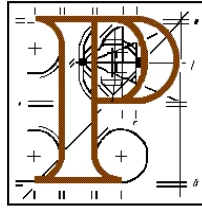


An Bord Pleanála



Inspector's Report

PL19.245622.

DEVELOPMENT:-

Signage and alterations to front façade, consisting of new windows and doors and alterations to rear façade consisting of new doors to existing commercial building at Townparks, Railway Road, Birr, Co. Offaly.

PLANNING APPLICATION

Planning Authority: Offaly County Council.
Planning Authority Reg. No: 15/185.
Applicant: Pitstop Fuels Limited.
Application Type: Permission.
Planning Authority Decision: Grant Permission with conditions.

APPEAL

Appellants: Ger and Yvonne Claffey.
Observers: None.
TYPE OF APPEAL: Third Party.
DATE OF SITE INSPECTION: 11th January 2016.
Inspector: **Derek Daly**

1.0 SITE DESCRIPTION.

The site is located in the built up area of town of Birr, County Offaly and has frontage onto the eastern side of Railway Road, the main approach road to the town from Nenagh (N52) and Roscrea (N62). Immediately to the north of the site is a road and to the north of the road is the Camcor River. The river forms a visual break before entering into the more historic town centre area located north of the river. The town is a heritage town which largely arises from the terraces and public buildings located in the town centre.

On the site is a building currently not in use which was used as a car showrooms, shop, filling station and garage. There is a forecourt for the sale of petrol and overhead canopy to the front of the building. There is a parking area to the rear of the building. The site has two vehicular access points. To the south of the appeal site are a number of detached dwellings with another filling station further to the south on the same side of the road. On the opposite side of the road to the southwest of the site are the main GAA grounds of the town and to the northwest on the opposite side of the road and north of the river is a Catholic Church. There is a public footpath running along the site frontage.

The overall site has a stated area of 0.4144 hectares.

2.0 THE PROPOSED DEVELOPMENT.

The proposed development as initially submitted and stated in the public notices to the planning authority on the 6th of July 2015 was for the following,

- Signage and alterations to the existing front elevation, consisting of the removal of a doorway and the replacement of existing windows with new windows and the provision of two new signs on the front elevation of the building.
- It is also proposed to provide for two new doors and alterations on the rear elevation.
- A cover note submitted with the application indicates that the proposal is as stated in the public notices. The issue of change of use from a car showroom to a shop is not the subject of a planning application and that a section 5 declaration is currently being sought in respect of the change of use and no other works are proposed internally which require planning permission.

Further information was submitted on the 26th of August 2015 in relation to clarifying the nature of the signage proposed. There was also further information submitted in relation to on-site parking arising from a request from the planning authority with 31 spaces provided and also clarification in relation to the accessing and exiting of traffic from the site in the context of the parking arrangements proposed.

3.0 PLANNING HISTORY.

The site has a planning history where permission was granted in the past for a filling station on the site with subsequent permissions for a canopy, signage and alterations to the existing premises.

It is also indicated that the applicant sought a section 5 declaration as to whether the change of use from a car showroom to a shop is or is not development and is or is not exempted development which concluded that the proposed development is development and is exempted development.

4.0 PLANNING AUTHORITY REPORTS.

The roads report dated the 20th of July 2015 requested further information relating to parking and access/exit arrangements.

The water and environmental services report dated the 23rd of July 2015 has no objections.

The planning report dated the 11th of August 2015 refers to the planning history; the provisions of the development plan; that AA screening was carried out by the planning authority and concluded that the development is unlikely to have significant effects and having regard to the reports received further information was requested relating to details of the materials proposed for the signage and also details relating to access/egress.

The planning report dated the 10th of September 2015 refers to further information submitted as satisfactory and recommended planning permission.

5.0 THE PLANNING AUTHORITY'S DECISION.

The planning authority's decision was to grant planning permission subject to 6 conditions. Among the conditions of note,

- Condition no.3 relates to car parking and access/egress arrangements.
- Condition no.4 relates the external finishes of the signage.
- Condition nos.5 and 6 relate to restriction on further advertising signs and advertising material.

6.0 APPEAL SUBMISSION.

6.1 THIRD PARTY APPEAL.

Ger and Yvonne Claffey in a submission indicate,

- The appellants are concerned in relation to the vagueness of the application and proposed use of the premises.

- There are no details relating to the shop premises.
- Different floor areas are alluded to in different drawings.
- Reference is made to the previous use of the premises and that change of use to a shop requires planning permission in particular given the floor area proposed.
- Reference is made to the issue of traffic and traffic congestion.
- The planning authority have made a decision without having sufficient information relating to site and future use.

7.0 RESPONSES TO APPEAL.

7.1 PLANNING AUTHORITY RESPONSE.

The planning authority applicant in a response dated the 3rd of November 2015 to the grounds of appeal indicate that they have no further comment to make in relation to the appeal.

7.2 FIRST PARTY RESPONSE.

Sean Lucey and Associates on behalf of the applicants in a response to the grounds of appeal dated the 2nd of November 2015 indicates,

- The application applied for is as identified in the plans and particulars and no planning application was made for a change of use.
- The application is not vague or misleading and relates to updating and modernising a tired façade of the structure to serve a shop that is to be opened on the appeal site.
- The access to the site has been in place and operated without incident since the commercial use of the site began.
- The spaces provided accord with the provisions of the current development plan and the spaces provided are in excess of the needs of the shop.
- In relation to change of use for the purpose of clarity the change of use from a car sales showroom to a shop was the subject of a declaration under section 5. Reference is made to Class 14(a) of the Planning and Development Regulations 2001 as amended and a declaration that the development was exempted development and is exempted development was issued by Offaly County Council on the 8th of July 2015.
- Alterations to the parking area was requested by the planning authority and instituted by the application as part of the planning process. The proposals were considered acceptable. These were dealt with as a technical matter as it does not pertain to the actual application as applied for which is purely to alter the facade and rear elevation of the structure.

- There is no impediment to utilising the existing car parking arrangement on the site and the traffic flow issue is conditioned purely to improve the situation for traffic entering the site.
- All works carried out on the site are exempted development.
- Although there is reference to the site history the last permitted use of the building was for the sale and display of motor vehicles a repair garage and petrol pumps and the current application is for altering a permitted existing façade.
- No valid planning issues have been raised and the Board are requested to dismiss the appeal.

8.0 POLICY.

8.1 COUNTY POLICY.

DEVELOPMENT PLAN.

The operative plan is the Birr Town and Environs Development Plan 2010-2016.

The site is within an area zoned as commercial in the plan. The site is also located within a flood zone.

Chapter 14 of the plan relates to development management and sets out standards and criteria for the consideration of signage.

9.0 ASSESSMENT

- 9.1 The proposed development as initially submitted and stated in the public notices to the planning authority on the 6th of July 2015 was for signage and alterations to the existing front elevation, consisting of the removal of a doorway and the replacement of existing windows with new windows and the provision of two new signs on the front elevation of the building. It is also proposed to provide for two new doors and alterations on the rear elevation.

It is noted that a cover note was submitted with the application which indicates that the proposal is as stated in the public notices and that the issue of change of use from a car showroom to a shop is not the subject of this planning application **and that a section 5 declaration was currently being sought in respect of the change of use** and no other works are proposed internally which require planning permission.

Further information was submitted on the 26th of August 2015 in relation to signage proposed and also in relation parking with 31 spaces provided and clarification in relation to the accessing and exiting of traffic from the site in the context of the parking arrangements proposed.

9.2 In relation to the grounds of appeal the appellants have raised concern in relation to the vagueness of the application and proposed use of the premises; that there are no details relating to the shop premises; that change of use to a shop requires planning permission in particular given the floor area proposed and reference is made to the issue of traffic and traffic congestion.

9.3 Responding to the appeal the applicant indicates that the application applied for is as identified in the plans and particulars and no planning application was made for a change of use and relates to updating and modernising a tired façade of the structure to serve a shop that is to be opened on the appeal site.

It is indicated that the access to the site has been in place and operated without incident since the commercial use of the site began; the parking spaces provided accord with the provisions of the current development plan and the spaces provided are in excess of the needs of the shop. The alterations to the parking area was requested by the planning authority and instituted by the application as part of the planning process; were dealt with as a technical matter as it does not pertain to the actual application as applied for which is purely to alter the facade and rear elevation of the structure. There is also it is indicated no impediment to utilising the existing car parking arrangement on the site and the traffic flow issue is conditioned purely to improve the situation for traffic entering the site.

It is also indicated that no valid planning issues have been raised and the Board are requested to dismiss the appeal.

9.4 In relation to the proposal as submitted I note that the public notices and particulars submitted relate to alterations to the front and rear elevations of the buildings in particular replacement of new windows, alterations in relation to doors and provision of signage

9.5 I also note that the issue of change of use or parking and access arrangements were not part of the initial submission and particulars and are not referred to in the public notices. The assessment will therefore address the application as applied for which is for the alterations to the elevations.

9.6 The existing building is a garage premises of no particular architectural merit but represents a form of commercial garage premises of a particular era which is present in many towns and villages. The overall elevation will remain largely unaltered. I would have no objection to the alterations to the front elevation as proposed to the windows and removal of the door. The planning authority have by way of condition required that the signs not be internally illuminated and provide for an adapted corporate image to complement the heritage town of Birr. Given the significant built heritage of the town this requirement on a major approach road to the town centre is I consider reasonable.

10.0 RECOMMENDATION.

Arising from my assessment above I therefore recommend that planning permission be granted in this instance based on the reasons and considerations and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the nature of the proposed development and the current established use on the site, the scale of development proposed and the submissions made in connection with the planning application and the appeal, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The grant of planning permission relates to the development as applied for and stated in the public notices. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars submitted to the planning authority on the 6th of July 2015 and 26th of August 2015, 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. Details of the materials, colours and textures of all the external finishes including the proposed signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The signage shall not be internally lit and shall comply with all requirements specified by the planning authority.

Reason: In the interest of visual amenity and in the interest of providing for an appropriate design and visual response consistent with the preservation of the Heritage Town of Birr.

- 3 Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, other than the signage identified on the submitted drawings, any additional awnings, canopies, signage or advertising material including signs affixed to windows or other alteration to the front elevation including the provision of roller shutters, shall be the subject of a separate application for permission to the planning authority. In addition no display of goods or advertising or storage of goods shall take place outside of the premises or in the forecourt area without a prior grant of planning permission.

Reason: In the interest of visual amenity and in the interest of providing for an appropriate visual response consistent with the preservation of the Heritage Town of Birr.

Derek Daly,

Senior Planning Inspector.

12th January 2016.