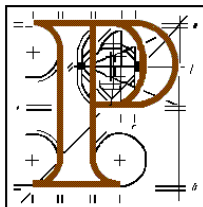


An Bord Pleanála



Inspector's Report

Site Address: The Former Brooks Building, Tipperary Road, Ballysimon, Co. Limerick.

Proposal: Removal of existing wall mounted signage on front (south) elevation, change of use of warehouse to storage area, new main entrance, fire escape and all ancillary works.

Planning Application

Planning Authority: Limerick City and County Council

Planning Authority Reg. Ref.: 15/397

Applicants: HSS Hire

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant: GPT Plant and Tool Hire

Type of Appeal: 3rd party –v- grant

Observers: None

Date of Site Inspection: 16th January 2016

Inspector: G. Ryan

1.0 SITE

- 1.1 The site consists of a large portal-framed building in an area of Limerick City characterised by industrial uses, builders suppliers, car dealerships, retail warehousing, etc. The site is accessed off the R527 (formerly the N24), which forms part of the Limerick City – Tipperary – Waterford radial route, but lies within the city’s ring road.
- 1.2 The site itself is located off the R527, and is accessed by way of a small cul de sac that provides access to this building as well as 2 buildings to the east that are occupied by the appellants, GPT Tool Hire.
- 1.3 It is my understanding that the building was formerly occupied by a by a builders suppliers. At the time of my site inspection, the western part of the building was in active use by ‘Modern Tyres’, who would appear to sell and fit car tyres, along with exhausts, batteries, etc. They have a ‘front of house’ element, accessed from the west, a workshop accessed from the south elevation (western end), with part of the ‘back of house’ floorspace in use for stock and storage.
- 1.4 The site as shown on the submitted drawings is restricted to the footprint of the building itself. The wider site is outlined in green (0.2544ha), and indicates the extent of lands under the control of the landlord. A letter of consent to the making of the application is included.

2.0 PROPOSAL

2.1 SCHEME AS SUBMITTED

- 2.1.1 The subdivision of the building to provide for a 2nd unit. Modern Tyres would retain the eastern portion, whereas HSS Hire, a tool and equipment hire company would occupy the eastern portion, with an internal subdivision. The two units would be 1,468m² and 1,127m². The floorplans for the HSS unit depict a ‘front of house’ area in the building’s southeast corner incorporating a reception and display area, with staff ancillary spaces to the west of this. The rear portion of the site, which benefits from 3 large entrances, is identified as ‘warehouse storage’.
- 2.1.2 The erection of signage to the south and east elevations (and the removal of existing signage)
- 2.1.3 A new entrance to the ‘front of house’ section in the building’s southern elevation, accessed via new pavement and ramp. There would also be a new doorway to the staff area, and a new doorway to the rear (north) elevation.

2.2 FURTHER INFORMATION REQUEST AND RESPONSE

2.2.1 Prior to issuing a decision, the planning authority sought further information on 1 point, which can be summarised as follows, along with the response from the applicant.

Planning authority request	Applicant's response
1. The applicant is asked to clarify what is meant by a 'trade area', and whether this is a retail use.	<p>The vast majority of customers, 80-85% would be trade professionals. The remainder would be members of the public.</p> <p>The only saleable goods within the unit would be the consumable and resale option in association with the products hired out. For example, HSS might hire a floor sander, but would sell the sandpaper that would go with it. PPE would also be sold.</p> <p>In the UK, HSS fall into the 'B8' - warehouse and distribution class of development.</p>

Table 1

2.3 CLARIFICATION OF FURTHER INFORMATION REQUEST AND RESPONSE

2.3.1 Following the receipt of further information, the planning authority sought clarification of further information on 1 point, which can be summarised as follows, along with the response from the applicant.

Planning authority request	Applicant's response
1. The applicant is requested to submit a revised design of the proposed entrance point and vehicle parking area given that the proposed use would attract large trade vehicles. Refers to existing parking to the west of the site. The green space is in common ownership and cannot be removed without consent of the parties.	<p>It is not possible to split the building along its east-west access due to the long floorplates that would result.</p> <p>Large vehicles can access to the north where there is a huge concreted yard. The entrance to the front would facilitate the collection and return of smaller goods, so the parking area to the south would remain free of large vehicles.</p> <p>The 3rd party has a right of way over the access road only (legal deeds included). Any assertions of additional rights would be a civil matter.</p> <p>No redesign is included in the CFI response.</p>

Table 2

3.0 SUMMARY OF REPORTS TO THE PLANNING AUTHORITY

3.1 REPRESENTATIONS

- 3.1.1 Objections were submitted on behalf of the current appellant. The matters raised are largely reflected in the appeal grounds summarised in section 6.1 below. Other items of note include the following.
- 3.1.2 GPT state that no permission has been sought regarding the re-establishing of the use of the gate and roller shutter doors to the east of the building.
- 3.1.3 The objection includes a number of photographs.

3.2 DEPARTMENTAL REPORTS

3.2.1 Fire Officer

- 3.2.2 No comments or conditions.

3.2.3 Travel and Transport

- 3.2.4 This report post-dates the receipt of the Clarification of Further Information submission.
- 3.2.5 States that permission should have been sought for retention rather than permission.
- 3.2.6 Refers to the disagreement between the parties regarding rights to the green area to the south of the building.
- 3.2.7 Notes that the applicant did not redesign the entrance re parking. This can be addressed by way of condition requiring that no vehicle accessing the new entrance shall cause an obstruction on the access road for vehicles wishing to access GPT.
- 3.2.8 There is adequate parking to the west and north of the building.
- 3.2.9 No objections.

3.3 PLANNING OFFICER'S FIRST REPORT

- 3.3.1 I note that there are only two planning officer reports on file – post FI and post CFI - and that there is no report pre-dating the further information request.
- 3.3.2 The report contains a number of photographs of the site.
- 3.3.3 'Screens out' for Appropriate Assessment under the Habitats Directive.

- 3.3.4 The site is not identified as being within a flood zone.
- 3.3.5 A portion of the building indicated as 'trade area' could be viewed as retail. The applicant should be asked to clarify this.
- 3.3.6 Recommends requesting clarification of further information.

3.4 PLANNING OFFICER'S SECOND REPORT

- 3.4.1 Development contributions are not considered applicable in this instance as there is no additional floor area nor any change of use. The signage is ancillary.
- 3.4.2 Any issues over road access are considered civil in nature. Notes the report of the Travel and Transport Department.
- 3.4.3 Recommends a grant of permission.

4.0 PLANNING AUTHORITY DECISION

The planning authority decided to grant permission subject to 2 conditions. The first is the standard 'Condition 1', with the 2nd requiring the submission of details of the new signage for agreement with the planning authority.

5.0 HISTORY

No relevant history on file.

6.0 POLICY

6.1 LIMERICK CITY DEVELOPMENT PLAN 2010-2016

The site is zoned 'light industry', along with both sides of the R527 along this stretch.

Policy EDS.17 of the plan states - inter alia - the following (my emphasis)

*"The light industry zoning objective allows for light industry and a range of related uses that would be suitable for location on industrial estates within the City, as it is not possible to zone for all types of uses separately. Therefore, **as well as light industry, a range of other uses are also open for consideration in light industry zones to include trade warehousing and distribution, wholesaling, trade showrooms, showrooms (where ancillary to manufacturing, fitting and trade) and incubator units. Pure retail, retail warehousing and retail showrooms will not be permitted in these areas.**"*

7.0 GROUNDS OF APPEAL

7.1 BACKGROUND

- 7.1.1 The 3rd party appeal was submitted by Waldron and Associates architects on behalf of the appellant, GPT Plant and Tool Hire.
- 7.1.2 GPT operate a hire company from the premises to the immediate east of the subject site, at the termination of the internal estate road which provides access to the subject site.

7.2 APPEAL GROUNDS

- 7.2.1 The green area, access road, and footpaths to the south of the subject building are shared by the applicants and the appellants. The appellants have not authorised any alterations to this area, such as the proposed entrance.
- 7.2.2 The appellants have concerns that the reference to ‘ancillary support spaces’ in the scheme’s description might apply to the green area to the south of the subject building.
- 7.2.3 Works were undertaken prior to the application for permission (a letter to the enforcement section on this matter is included).
- 7.2.4 No reference was made in the application to the removal of shrubs from the green area.
- 7.2.5 The appellants take issue with the naming of the elevations. The applicant identifies the south elevation as the front elevation. The appellants assert that the west elevation is the front elevation.

8.0 SUMMARY OF RESPONSES

8.1 PLANNING AUTHORITY

- 8.1.1 The planning authority have not responded to the matters raised in the appeal.

8.2 FIRST PARTY RESPONSE TO THIRD PARTY APPEAL

- 8.2.1 A response submitted on behalf of the applicant counters the grounds of the appeal. It raises a number of matters and makes a number of points contained previously on file, and summarised previously within this report. Other points of note can be summarised as follows.
- 8.2.2 Any works to the common areas that may have taken place are outside of the subject site.

- 8.2.3 No external areas would be used for ancillary support spaces or external storage.
- 8.2.4 The shrubs that would be removed are insignificant (photo attached).

9.0 ASSESSMENT

Having inspected the site and reviewed the file documents, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Principle of development
- Legal title
- Car parking and access
- Screening for Appropriate Assessment

9.1 PRINCIPLE OF DEVELOPMENT

9.1.1 The site is on lands zoned for 'Light Industrial'. This zoning objective allows for 'trade warehousing and distribution', but explicitly excludes 'pure retail, retail warehousing, and retail showrooms'. The planning authority had concerns at the outset that the proposed development might fall into the latter category, and this matter was the subject of the first further information request.

9.1.2 In my opinion, the information presented by the applicant with the application and with the response to the further information request (See section 2.2 above) clearly shows that the applicant's business model falls squarely within the terms of the permitted uses within this zone. I have had sight of imagery relating to the applicant's other outlets nationwide, all of which confirms this position. The tool and equipment hire business would be supported by a small and ancillary element of retail.

9.2 LEGAL TITLE

9.2.1 The appellant raises a number of concerns regarding their rights to the road and green space to the south of the subject building. I concur with the planning authority, who concluded that these were civil matters, to be determined between the parties.

9.2.2 In addition, I note that the 'red line' site extends to the building's envelope only. Beyond the 'four walls', the lands are in the control of the landlord for the site, but not the applicant.

9.3 CAR PARKING AND ACCESS

9.3.1 The question of car parking was raised under the Clarification of Further Information request. The Travel and Transport section were subsequently satisfied that the existing parking to the west and north of the building would be adequate, and that parking on the shared

access road to the south of the building could be regulated by condition (See section 3.2.3 above). This condition was not replicated in the planning officer's recommendation or the planning authority's decision. In my opinion, this course of action was correct, as the suggested condition was unimplementable by the applicant as they would have been beholden to the behaviour of visiting patrons, and unenforceable by the planning authority.

- 9.3.2 Nevertheless, the question remains as to whether it is reasonable to expect that the customers of the proposed unit would park in the 'Modern Tyres' car park to the west of the building and walk the 100m to the entrance of the proposed unit in the building's southeastern corner, along a road with no footpath (a new path along the building's perimeter is shown, which would cut around 15m off the journey, but this lies outside the subject site).
- 9.3.3 I note that other outlets run by the applicant nationwide have in the order of 8-12 parking spaces outside each unit, and in direct proximity to the main entrance.
- 9.3.4 In my opinion, the far more likely scenario would be that patrons would park along the access road, which serves both the subject site and the appellant's premises. The question becomes whether this would be acceptable. In my opinion, the roadway is sufficiently wide to allow for an element of on-street kerbside parking.
- 9.3.5 It is also my opinion that it would be highly likely that the landlord may wish to revisit the issue and provide off-street car parking in what is now the area of green space to the north and/or south of the roadway in the vicinity of the new unit's entrance, but this would fall outside the terms of what is proposed under the current application. Indeed, it falls outside of the terms of what could be imposed by the board, as these lands are outside the control of the applicant.

9.4 SCREENING FOR APPROPRIATE ASSESSMENT

- 9.4.1 The nearest Natura 2000 site is the Lower River Shannon SAC, 1.7km to the north. Given the minor nature of the proposed development, I do not consider that the proposed development would be likely to have significant effects on the European site having regard to its conservation objectives.

10.0 CONCLUSION AND RECOMMENDATION

- 10.1 Based on the above, I recommend that permission be granted. The scheme is consistent with the zoning objective, all legal concerns are civil matters, and the car parking, while sub optimal, is acceptable. Conditions as per those applied by the planning authority would be appropriate.

11.0 REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, and the zoning objective for the site and the policies of the planning authority as set out in the Limerick City Development Plan 2010-2016, 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 or of property in the vicinity, would not detract from the character of the area, and would be in accordance with the policies set out in the said development plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 order to clarify the development to which this permission applies.

2. Details of any new signage shall be submitted to and agreed by the planning authority in writing prior to the erection of same.

Reason - In the interests of visual amenities.

G. Ryan
Planning Inspector
18th February 2016