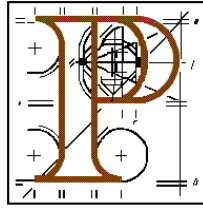


An Bord Pleanála



Inspector's Report

Appeal Ref. No:	PL06F.245753
Proposed Development:	Retention of existing use of the lands as a car wash and valet facility and permission for 2 no. concrete wash bays, a covered valeting bay, new signage and associated works.
Location:	29 Dublin Road (aka Milton Terrace) Swords, Co. Dublin
Applicant:	Rafil Kalinowski
PA Reg. Ref:	F15A/0398
Planning Authority:	Fingal County Council
P.A. Decision:	Refuse
Appeal Type:	First
Appellants:	Rafil Kalinowski
Date of Site Inspection:	22 January 2016
Inspector:	Una Crosse

1. SITE AND SURROUNDINGS

The appeal site with a stated area of 0.095ha comprises an area of ground to the side and rear of No. 29 Dublin Road in Swords. The existing dwelling on site is a two storey end of terrace unit which appears to be accessed via the adjoining property and has a stated office use. The site is accessed to the side of this property via a wide entrance from the Dublin Road into the centre of Swords. The site is flat, irregular in area tapering into a narrow strip to the east of the site. It is adjoined to the north and south by existing residential properties.

2. PROPOSED DEVELOPMENT

Development comprises two elements

1) the retention of the existing use of the lands as a car wash and valet facility; and

2) Permission for the development of 2 no. concrete wash bays and a covered valet bay and new signage. The washbays are 4metres by 6m in area with the covered valet bay covered by a painted steel curved structure with a perspex roof with a maximum height of 3.25m reducing to 2.18m.

In addition it is proposed to place a triangular sign, internally illuminated 3m in height and each face measuring 1m, in the front area of No. 29. A 2750litre capacity washdown separator is proposed adjacent to the proposed concrete base and a 1700litre silt trap within the concrete base and a soakpit for surface water

3. PLANNING HISTORY

None on site. Noted that an enforcement notice issued on 31st July 2015 requiring that the facility be removed from the site.

4. PLANNING POLICY FRAMEWORK

4.1 COUNTY PLANNING POLICY

Fingal County Development Plan 2011-2017

Zoning

The majority of the site is zoned 'MC' in the current development plan the objective of which is "to protect, provide for and/or improve major town centre facilities. A small portion of the site to the very east is zoned Residential 'RS'.

Policies and Objectives

Objective Swords 7

Objective Swords 8

4.2 Swords Masterplan 2009

There are no specific objectives pertaining to the site.

5. PLANNING AUTHORITY DECISION

The Planning Authority decided to refuse permission for both elements of the development for the following reason:

“By reason of the location of the facility within the curtilage of No. 29 Dublin Road (Milton Terrace) Swords and by reason of the insertion of this commercial land use in close proximity to established residential development to the north and south of the site, (the development would) seriously injure the residential amenity of the area and would result in a piecemeal, haphazard form of development which would be contrary to the proper planning and sustainable development of the area”.

Transportation Planning Section – Further Information required – Revised layout required that separates the commercial and residential parking and access to each. Noted that adequate spaces exist as do adequate sightlines.

Water Services Planning Section – No objection – conditions

Environment and Water Services Department – no objection – conditions

Irish Water – Further Information requested – no water connection shown. Revised drawing required showing separate metered connection for the car wash.

No third party submissions received.

The Planners Report

The report notes that the main issues relate to zoning, suitability of the site, and the amenity of the area and visual impact. In relation to zoning it states that as car wash is not listed in the permitted or not permitted uses it is open for consideration. Petrol station is noted as being permitted in principle. It is stated that the development will be considered in terms of other planning criteria and its achievement of the land use zoning objective. In relation to suitability of the site it is stated that the development is located to the rear of and within what would be the private amenity space of No. 29. No part of the garden of the property is available for use as private amenity space. The proposal therefore negatively impacts on the amenity of the residents of this dwelling. Not clear if the house is used for residential purposes but no permission exists for a change of use. The planning status of a cabin to the rear of the dwelling is also questioned but does not form part of the application site.

The impact of the proposal on the amenity of residents in Carton Court to the south of the site is also considered to be negative given the proximity and the nature of the operation. It is stated that a traditional car wash business within a service station is carefully planned so as not to cause nuisance. No measures have been proposed to reduce noise levels as it is open to all sides. While the car wash is not considered to significantly impact on the visual amenity of the area, the position of a 3m high commercial signage in the front garden of the residential unit is considered inappropriate. Permission for such signage is considered likely to set a poor precedent for similar development. Refusal is recommended.

6. APPLICANT'S GROUNDS OF APPEAL

The grounds of appeal may be summarised as follows;

- Operation has been ongoing for approx. 2 years and now seeking to regularise planning matters;
- Cars are washed by hand and a full valet service is offered with cars left for an hour and business repeat clients with the use a good interim use while awaiting future redevelopment;
- No objections were received from any third party; either other commercial operators or residents in the area;
- Closest residents have given appellant a letter of support (attached to appeal) as they want him to remain in business and dispute claims of PA that their residential amenity is injured;
- Car wash does not operate after 5pm and is kept as far away as possible from the houses in Carton Court;
- Key difference between subject development and Topaz is subject development wash the cars by hand and left for a period of time;
- Bovale Developments own the property and provide a letter of support and confirm No. 29 is not in residential use for over 10 years;
- Accept that no permission on file for change of use but Fingal County Council receiving rates for office use for over 10 years (receipts for payment of rates on the property are attached);
- No record of any enforcement in respect of office use;
- As No. 29 no longer in use as a dwelling the removal of private open space to the dwelling is not in question;
- Fingal Co. Co. have granted permission for a similar type development in Swords Manor – F13A/0344;
- The Boards decision at PL26.244676 refers to a grant of permission for temporary use of car park as a car wash and valet business;
- Development proposed would not militate against planning for redevelopment or intensification of use of this area of ground;

7. RESPONSES

7.1 PLANNING AUTHORITY RESPONSE

The planning authority commented on the appeal as follows;

- Reference made to F13A/0344 – retention of a car wash in Swords Manor – not comparable as the site is removed from adjoining residential units and forms part of the extended grounds of the shopping centre;
- Subject development located on a main arterial route into Swords and unrelated to the use of the building on site which appear to be in residential use but which are indicated to have been in commercial use for some time for which there appears to be no permission;
- Development is currently piecemeal and haphazard in manner and would impact on and seriously injure the residential amenities of adjoining properties.

8. ASSESSMENT

This assessment will consider the following;

- Principle of Proposal
- Suitability of Site and Impact on Residential Amenity
- Signage
- Other Matters
- Appropriate Assessment

8.1 Principle of Proposal

The area of ground upon which the development is located and which the development is proposed is located on lands zoned MC the objective of which is to protect, provide for and/or improve major town centre facilities. As noted in the Planners report the use is not specifically included but I note that petrol station and vehicle servicing/maintenance garage are both permitted in principle. It is arguable that the use in the current appeal is a use associated with both of these uses. In my opinion, the use could arguably be considered as being permitted in principle as being open for consideration as stated by the Planner. Either way I consider that the principle of the use is appropriate on this site.

The merits of using prime urban land zoned MC for a use such as this are a matter of sustainability in my opinion. The consideration that the use would result in piecemeal and haphazard development may be a consideration in the context of developing the entire area of the site in question. The proposal herein, in terms of the footprint proposed, is limited to an area to the north of the site. However the site owners do not appear to have any other proposals at present for the development of the land. In addition, the proposal comprises a number of concrete bays and a Perspex roof all of which are easily removed. In this regard, I note that the current County Development Plan is close to its end with a new Plan to be developed and therefore I consider that subject to other matters considered in the following sections that a temporary permission for the use and the development as proposed may be an appropriate interim development.

8.2 Suitability of Site and Impact on Residential Amenity

I consider that the site is suitable for the use based on its size, configuration and access. The main concern in my opinion is the impact of the proposal on the residential amenities of property in the vicinity. The matter of residential amenity arises in respect of No. 29 Dublin Road, the property within the site and the residential development to the north and south of the site.

In relation to No. 29, the existing property on the site, it is clear that this unit has not been in residential use for some time. Rates have been paid to the Council for a number of years in respect of a commercial/office use on the site. It is noted that no permission has been sought for such a change of use and therefore I consider it is most appropriate in this context to consider the impact on same in terms of its residential use. In this context I would note that the property as it stands is located on a busy thoroughfare into the town centre where background noise is at a higher level than that which would be considered reasonable for residential development in the main. The valeting bay is located closest to the property with a proposed perspex cover. I do not

consider the noise emanating from same would be unreasonable in the context of residential amenity. Hoovering and other noise emanating would be normal in any residential context. The wash bays are located 9 metres from the nearest rear wall of the property. The operation was in use when I was on site, albeit just one car was being washed with a handheld powerhose rather than the potential of two cars ongoing in the two bays. The noise emanating from same was not in my opinion such that would impact negatively on the amenity of the property. The other residential properties to the north and south are further removed from the proposed bays and therefore I do not consider that the noise arising would impact negatively on these properties.

The operation is a daytime use and if necessary operating hours could be specified by the Board so as to avoid early mornings and late evenings. The appellant states that the operation finishes at 5 pm. I have not found any mention in the documentation of a starting time but would consider that it would be reasonable to restrict same to 9 am.

8.3 Signage

I consider that the signage proposed is of a design and scale which is out of scale with the context of the area. In this regard I consider that a revised signage arrangement is required. I do not consider it appropriate to condition same as it would be difficult to define the extent of what is considered appropriate by way of condition. In this regard I consider that the signage as proposed should be omitted from the proposal and a revised application for same should be submitted for consideration.

8.4 Other Matters

I note the reports on file from other departments within the Council and also Irish Water. The Transportation Planning Section in their report sought further information in the form of a revised layout which separates the commercial and residential parking and access to each. I would note that the residential unit, No. 29, while not currently in residential use should have parking available to it given the residential use still pertains in principle. In this regard I would consider that a condition seeking a revised layout be included. The Water Services Planning Section sought conditions be attached which I would suggest could be incorporated and requirements met by way of condition. The Environment and Water Services Department included some conditions which similarly can be conditioned. Irish Water requested that further Information be sought as no water connection was shown. It was stated that a revised drawing was required showing a separate metered connection for the car wash. I consider that this could be conditioned particularly given the requirement of the Transportation section for a revised layout.

In respect of Development Contributions, section 10(i) of the Fingal Development Contribution Scheme 2016-2020 lists the exemption from the inclusion of contributions with part (q) referring to temporary permissions of up to 5 years.

8.5 Appropriate Assessment

Having regard to the nature and scale of the proposed development, nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, and proximity to the nearest European sites, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9. CONCLUSION

I consider that the use is an appropriate temporary use of an area of ground as yet undeveloped. I do not consider that the development impacts or would impact negatively on the residential amenity of property in the vicinity of the site. The signage proposed should be omitted from the proposal.

10. RECOMMENDATION

Having regard to the foregoing I recommend a temporary 3 year grant of planning permission in accordance with the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the Fingal Development Plan 2011-2017, it is considered that, subject to compliance with the conditions set out below, the use and the proposed development would be acceptable for a three year period, and accordingly would not compromise the future development potential of a town centre site close to the centre of Swords. The proposed development would not, therefore, be detrimental to the vitality and vibrancy of Swords town centre, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained 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 and the development shall be retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2 A revised site layout plan shall be submitted for the written agreement of the Planning Authority prior to the commencement of the development which:

- (a) provides a parking plan which separates commercial and residential parking on the site.
- (b) shows a separate metered water connection for the development.

(c) indicates the omission of the proposed signage to the front of No. 29.

Reason: In the interests of clarity and orderly development.

3. The car wash/car valeting use hereby permitted shall cease within 3 years of the date of this order save where permission for a further period shall have been granted by the planning authority or by An Bord Pleanála on appeal.

Reason: To allow for assessment of the appropriate form of development for the site in the context of the plan making process.

4. The development shall operate between the hours of 09.00 to 17.00 Monday to Saturday only.

Reason: To protect the residential amenities of the area.

5. Surface water treatment shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

6. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site or on adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

Una Crosse
Senior Planning Inspector
February 2016.