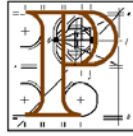


# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** 09.245918

**Development:** Reconfiguration of car parking layout and revisions to site boundaries granted under 13/1041 including the demolition of unit 10 of Newbridge Retail Park, Edward Street/Gandogue Lane, Newbridge, Co. Kildare.

### Planning Application

Planning Authority: Kildare County Council  
Planning Authority Reg. Ref.: 15/574  
Applicant: Curtmount Properties Ltd.  
Planning Authority Decision: Grant Permission

### Planning Appeal

Appellant(s): Jason Boothman  
Type of Appeal: First and Third Party  
Observers: None  
Date of Site Inspection: 23<sup>rd</sup> March 2016

**Inspector:** Joanna Kelly

## 1.0 SITE LOCATION AND DESCRIPTION

The appeal site with a stated site area of 0.5ha is located at the junction of Edward Street/Gandogue Lane in Newbridge. There are two existing residential properties on the site which are to be demolished as part of the previous permission granted under File Ref. No. 13/1041. The site backs onto the Newbridge Retail Park, with the “DID Electrical” unit immediately abutting the site to the south. There are lands within the applicant’s ownership which abut the north-eastern section of this site and which form part of a current application File Ref. No. 15/819 currently on further information.

Gandogue Lane bounds the appeal site to the north and is a narrow lane which provides access to other properties. There is an “Esso” filling station located to the southern boundary. The permitted access as part of File Ref. No. 13/1041 is from Edward Street/Gandogue Lane, the main shopping street in Newbridge town centre. The commercial core is located north-east of the appeal site and is within walking distance.

Pursuant to site inspection it is noted that there are a number of retail parks/shopping centres along Edward Street all of which are independently accessed with surface car-parking. The Newbridge Retail Park is located to the south of the site and is accessed from Military Road.

## 2.0 PROPOSED DEVELOPMENT

The proposal is for the reconfiguration of car parking layout and revisions to site boundaries granted under File Ref. No. 13/1041 including the demolition of unit 10, a retail unit permitted in the Newbridge Retail park and which is accessible from the Newbridge Retail Park.

## 3.0 PLANNING HISTORY

**File Ref. No. 13/1041** Permission granted for the demolition of all existing structures (including 2 detached houses) on the site, and the construction of a single storey discount food store (to include off licence use) with a gross floor area of 1,585sq.m. This is the extant permission pertaining to the appeal site which the applicant is seeking to amend.

### **Site immediately abutting the appeal site under the applicant’s ownership**

**File Ref. No. 15/819** Permission granted for an extension to the retail park comprising of (a) demolition of existing unit 10 and 11 Newbridge Retail Park to facilitate access (b) construction of 3 no. units in Block CC1 comprising of 2806sq.m.

retail space on ground floor and 1058sq.m. mezzanine floor (c) construction of 6 units in Block CC2 comprising of 1540sq.m. retail space on ground floor (d) construction of 11 no. apartments on first floor level of block CC2 (e) modification to elevations of existing unit no. 12 Newbridge retail Park (f) provision of car parking, landscaping, access roads and all ancillary works.

#### **4.0 PLANNING AUTHORITY DECISION**

##### **4.1 Planning and technical reports**

###### Planning report

The first planning report recommended that further information be submitted to provide a vehicular access to the south of the site from the Newbridge retail park, revision to car parking so that it is more consolidated on site, details re nature of covenant, more direct pedestrian provision, boundary treatments, *et al.*

A further report sought clarification of further information regarding type of attenuation system; details regarding extent of plant area; elevational details.

The planner recommended a grant of permission on foot of clarification of further information.

###### Irish Water

Details of surface water drainage to be submitted by way of further information.

###### Environmental Health Officer

No objections subject to conditions

###### Environment report

No objection subject to conditions

###### Transportation Department

No objection subject to conditions

###### Water services

Seeks clarification of attenuation details as submitted. A further report sets out no objection subject to conditions.

## 4.2 Planning Authority Decision

The Planning Authority granted permission for the proposed development subject to 24 conditions as follows:

Condition 1	Compliance with plans submitted and conditions of permission
Condition 2	Expiration date linked to File Ref. No. 13/1041
Condition 3	Conditions of File Ref. No. 13/1041 to be complied with
Condition 4	Landscaping
Condition 5	Revised car parking layout
Condition 6	Boundary treatment
Condition 7	Vehicular and pedestrian entrance to Newbridge retail park.
Condition 8	Reservation of lands for future link
Condition 9	Construction Management Plan
Condition 10	Sightlines as per DMRB
Condition 11	Footpath standards
Condition 12	Cycling parking
Condition 13	Surface water run-off
Condition 14	Public lighting
Condition 15-17	Surface water/waste water conditions
Condition 18	Same as condition 3
Condition 19-23	Construction including surface/waste water details/requirements.
Condition 24	Restriction on hours for demolition works

## 5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- **Boundary details** – It is set out that the proposed alterations to the red-line boundary of the site, particularly at new area C as shown on the submitted plan titled “proposed car parking layout and modified site boundary” directly overlap with the red-line boundary for development application ref. No. 15/819. The current application does not provide adequate details of the interaction between the two sites despite the request for further information.
- **Car parking layout unresolved** – Despite the application seeking permission for re-configuration of the car parking layout there remain a number of items remaining unresolved in this regard. As this application is for “reconfiguration of parking layout” the pedestrian circulation and safety should form an important element of the assessment of such an application. The Board is requested to satisfy themselves that pedestrian as well as the overall car parking arrangements are suitably addressed before issuing any decision on the application.

- **Construction management** – No construction management plan was submitted as part of the application. No demolition plan was submitted. These are important considerations for the on-going operation of surrounding shops and businesses. A condition was attached seeking submission of such a plan prior to commencement of development. It is submitted that interested third parties would not have an opportunity to influence the final elements of this plan.
- The submission sets out that whilst the appellant is supportive of investment and development within the town centre he is not supportive of the proposed development as it currently stands and objects to it in the strongest terms.

### **First Party Appeal against conditions**

- **Condition no. 5** – It is set out that the layout drawing submitted indicated a car park layout of 78 car parking spaces. This is the same number of car parking spaces indicated in the parent permission. Sub-section (b) of this condition requires an auto tracked drawing to be submitted showing that delivery vehicles can safely manoeuvre around the car park. This may alter the car parking layout again depending on what the planning authority find acceptable. It is submitted that sub-section (c) of this condition requires 80 no. car parking spaces leaving it impossible to satisfy the other preconditions attached to the master planning permission and this permission. It is requested that sub-section (c) is removed and by doing so does not affect the spirit of the planning permission.
- **Condition 7** – The proposed scheme allowed for pedestrian and cycling permeability into the adjoining developments. It never extended to vehicular connectivity. A vehicular access at this point will only act as a ‘rat run’ and would be detrimental to the safety of pedestrians as there is insufficient width to make it safe for both pedestrians and vehicles. Reference is made to the Newbridge Local Area Plan and the Strategic Roads Objective SRO 8 and it is submitted that a vehicular link is provided for and there is no necessity for two in close proximity.
- The submission concludes by requesting that Condition 5 ( c ) and condition 7 are removed.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response** **Response to First Party Appeal**

The Planning Authority sets out that the appeal documentation was referred to the transportation department who advise that conditions number 5 and 7 are upheld by the Board.

#### Response to Third Party appeal

- Condition 7 of 15/574 specifically requires the design of the link to be agreed with the Planning Authority and also requires that it is open to the public upon completion of development. Condition 4 (i) of File 13/1041 also refers in this regard.
- It is considered that the operation and functionality of the revised car parking layout would be addressed by the requirements of condition no. 5 of 15/574.
- A condition requiring the submission of a construction management plan is considered reasonable. Condition 15 of File 13/1041 enables the Planning Authority to assess the appropriateness of a proposed CMP as well as construction operation hours etc. which would have particular regard to the need to safeguard the amenity of neighbouring properties.

#### **6.2 Applicant's response to grounds of appeal**

- The response outlines that at the time of submitting the planning application for the discount store there was a covenant on a portion of the site restricting it from being used as part of any discount store development. This covenant became a burden on the land following the sale of a site to Lidl some years previously and is referred to as "Area B" on the planning application File ref. 15/574.
- It also became evident that a larger area was required for plant than what was granted and also because of the covenant an additional space would be required to meet the car parking needs.
- It is set out that the appellant's issues refer directly to area C and how this overlaps with a boundary shown on planning ref. No. 15/819. This issue was not referred to in this original submission to the Council. The applicant is within his rights to include this area as part of another application to develop the brownfield site to the east of the development. This site is in the process of being sold to a discount store retailer and therefore it will be them who will have to comply with both permissions on this site. It is submitted that there is no discrepancy between boundaries of planning reference 15/574 and 15/819. The applicant has lodged a new application on part of a greenfield site to the east of the site including part of site 15/574 which opened up an access route into the new site.

- The revised car parking arrangement submitted with this application was designed as a shared surface arrangement between pedestrian and vehicle user.
- Condition 15 and 16 requires the submission of a construction management plan.
- A revised car parking layout plan is submitted which has been discussed with the planning officials.

## **7.0 POLICY CONTEXT**

The Newbridge Local Area Plan 2013-2019 is the statutory plan for the area.

The site has a land use zoning objective “town centre” which sets out “to provide for the development and improvement of appropriate town centre uses including retail, residential, commercial and civic uses”. The purpose of the zoning is to protect and enhance the special character of Newbridge town centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of Newbridge. The Council will encourage the appropriate re-use and regeneration of buildings, backlands and derelict/obsolete land. Innovative design approaches will be welcomed in the area, particularly with regard to residential and commercial development.

## **8.0 ASSESSMENT**

I have reviewed the proposal in the light of the Kildare County Development Plan and Newbridge Local Area Plan, relevant planning history, and the submissions on file. The proposal is to primarily re-configure car-parking spaces which were permitted under File Ref. No. 13/1041 and to make other minor amendments. Accordingly, I consider that the pertinent issues pertaining to this appeal should be assessed under the following headings:

- Site boundaries
- Car parking layout
- Construction Management Plan
- Condition 5 and 7 (First Party appeal)
- Appropriate Assessment

### **8.1 Site Boundaries**

8.1.1 The third party objection specifically raises concerns about the overlap of the appeal site’s boundaries with a current application File Ref. No. 15/819 which

pertains to a retail/commercial development on lands immediately abutting the appeal site to the north/north-east. The applicant would appear to own the aforementioned lands and as such has control over these lands. An inspection of details pertaining to File Ref. No. 15/819 indicates that this development also seeks the demolition of not only unit 10 but also unit 11 in Newbridge retail park. Whilst this in itself is not an issue per se, there does seem to be an overlap in the site boundaries pertaining to the appeal site and the application site pertaining to 15/819.

8.1.2 The appeal site forms part of the Edward Street to Military Road area identified in the Local Area Plan which provides for the development of a new street. Condition 4 of the extant permission File Ref. No.13/1041 requires proposals for the provision of pedestrian connectivity with adjoining sites including the Newbridge Retail park in compliance with the provisions of Section 7.6.7 Design Brief 2 of the Newbridge Local Area Plan 2013-2019. The applicant has indicated that pedestrian permeability through the site from Edward Street to Newbridge retail park has been provided thereby complying with this condition. Whilst, this maybe the case, I note that part of the site noted within the red line boundary of File Ref. No. 15/819 is also included in this appeal. The layout in this appeal does not reflect the layout applied for in the current File 15/819 which is currently on further information. I consider that this is the more pertinent issue and as such by allowing the proposed re-configuration of the car-park in effect it would prejudice the possibility of providing a better quality linkage through these town centre lands in line with the provisions of the local area plan. The proposal is considered piecemeal, seeking to resolve the immediate issues with regard to the extant permission of 13/1041 rather than seeking to expand the entire town centre lands at this location within the applicant's ownership in a coherent and logical manner whilst ensuring the delivery of linkages between all lands at this location.

## **8.2.0 Car Parking Layout**

8.2.1 The applicant has sought permission to re-configure the permitted car parking layout in respect of an extant permission for a discount store under File ref. No. 13/1041. It is set out by the applicant that there is an area (identified in the plans as Area B) which is subject to a covenant preventing its use associated with a discount store. The applicant is therefore seeking to omit this area which was previously identified for car parking so as to comply with the stipulations of the covenant and appropriately address the requirements of the permitted planning permission. Area C identified on the plans provides for additional parking spaces so as to compensate for the loss of permitted spaces in area B. There are no details as to the exact nature of the covenant



referred to. In the absence of such I would question why this area cannot be used for car parking purposes or as a plant area which is being provided elsewhere. Therefore, I have to conclude that there is no justification based on the information on the file, for the proposed piecemeal layout of the car-park.

8.2.2 There are approx. 7 no. spaces that were provided in area B which is to the north east of the site. The loss of this area within the site has meant that the applicant has had to re-configure the parking provision. The Board should note that the applicant has submitted details of proposed layout (submitted 26<sup>th</sup> January 2016) in response to the grounds of appeal which is being discussed with the planning authority.

8.2.3 I have considered all of the details submitted in respect of this application and the car parking layout and conclude that the new area i.e. area C which is being included to provide for additional parking spaces to compensate for the loss of permitted spaces represents a fragmented and piecemeal configuration. I consider linkages to and from all of the sites in the general vicinity poor in that developments have been permitted to develop independently with their own entrances restricting overall legibility to and from retail sites; the provisions within the local area plan seek to address these linkages. An example of this is the current Newbridge Shopping centre site to the south-west of the site which abuts the Newbridge retail site and yet there are no pedestrian or vehicular linkages. The current means of access from one site to the other is a circuitous route by car via Military Road.

8.2.4 I refer the Board to the extant permission File ref. No. 13/1041 and in particular condition 4 as follows:

*“Within six months of the date of the issue of the final grant of permission (or as otherwise agreed by the Planning Authority) the applicant shall submit for the written agreement of the Planning Authority:*

- (i) Proposals for the provision of pedestrian connectivity with adjoining sites including the Newbridge retail Park in compliance with the provisions of Section 7.6.7 Design Brief 2 of the Newbridge Local Area Plan 2013-2019, and,*
- (ii) A revised car parking layout to allow for safe access through the application site to adjoining sites including the Newbridge Retail Park. The re-design shall accord with condition 5 below.*

**Reason:** *To ensure compliance with the provisions of the Newbridge Local Area Plan 2013-2019 and the proper planning and sustainable development of the area.”*

The executive planner dealing with the application File Ref. 13/1041 had recommended a refusal and there is a note from the A/Senior Executive Planner who recommended a grant subject to conditions, one of these conditions is condition 4 above seeking the connections with other adjoining sites. In terms of attempting to satisfy the requirements of condition 4 under File Ref. No. 13/1041 the applicant has attempted to overcome such with the provision of a pedestrian link from Edward Street to Newbridge Retail Park and additional parking. I consider this parking to be fragmented and located such that it would mostly likely only operate as an overflow area with limited passive supervision. Given that the applicant also owns lands immediately abutting the appeal site to the north-east, a better car-parking layout with more integrated and cohesive linkages can and should be provided.

### **8.3.0 Construction Management Plan**

8.3.1 The appellant has raised concerns about the lack of detail regarding a construction management plan during the application stage. However, I consider that details in respect of such are generally subject to the agreement of the Planning authority prior to commencement of development. Demolition works, location of skips etc. is such that would be agreed with the planning authority with minimal disruption to the other businesses/residents in the area. I do not consider it appropriate for such detail to be sought as part of an application.

### **8.4.0 First Party Appeal against conditions**

8.4.1 The applicant is appealing condition 5 on the basis that compliance with all the sub-sections of said condition in full is not possible. A revised plan has been submitted indicating an auto track for the delivery lorries and the consequential loss of spaces. It is submitted that the provision of 80 no spaces, is therefore not possible. The Kildare County Development Plan, Table 19 provides that retail stores in excess of 1,000sq.m. should provide 1 car space per 12sq.m. of gross floorspace. This would give rise for 132 spaces. The planning report in respect of the permitted development did not refer to car parking provision. It appears that the transportation section agreed that 80 no. spaces was an appropriate level of parking. I would concur that given the town centre location of the site that a reduction in car parking can be considered, particularly where there are clearly defined linkages to other town centre sites which allow for multi-purpose trips. I consider that the delivery of high quality development within the town centre with the provision of high

quality pedestrian and vehicular linkages between the different commercial developments is such that would then allow for a consideration for off-setting the number of parking spaces. However, given the layout proposed I consider the re-configuration to fragmented.

8.4.2 With regard to condition 7 requiring that the applicant to provide a vehicular and pedestrian link to the Newbridge retail park to the south, due regard should be given to the ability of the applicant to provide such a link. The Newbridge retail park is a permitted development. The applicant does appear to have control over some of the lands that form part of the retail park and which are subject to a standalone application already mentioned heretofore. Condition 4 of the extant permission sought the provision of pedestrian connectivity to the Newbridge retail park not vehicular access.

### **8.5.0 Appropriate Assessment**

Having regard to the nature and scale of the development proposed, to the nature of the receiving environment and the fully serviced location, no appropriate assessment issues arise.

## **9.0 CONCLUSIONS AND RECOMMENDATION**

It is considered that the proposed development should be refused for the following reason:

### **REASONS AND CONSIDERATIONS**

1. The proposed re-configuration of the car parking layout and revisions to site boundaries to that permitted development under File ref. No. 13/1041, represents piecemeal and a fragmented form of development. In the absence of a clear justification for the proposed layout, the Board is not satisfied that the layout provides for a cohesive and integrated form of development on town centre lands and as such would be contrary to the provisions of the Newbridge Local Area Plan 2013-2019 and as such the proper planning and sustainable development of the area.

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**Joanna Kelly**  
**Planning Inspector**  
**30<sup>th</sup> March 2016**