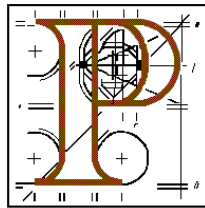


# An Bord Pleanála



## Inspector's Report

PL17.246039

**DEVELOPMENT:** Permission for 15 square metres ground floor retail extension to Unit 1 with new shop frontage, and 14 square metres first floor extension to Unit 5 to create an enclosed smoking area with a feature rooflight, at lands adjacent to Units 1 and 5, Summerhill Road, Dunboyne, County Meath.

### PLANNING APPLICATION

**Planning Authority:** Meath County Council

**Planning Authority Reg. No.:** 15/0487

**Applicant:** Owen Owens

**Application Type:** Permission

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

### APPEAL

**Appellant:** Owen Owens

**Type of Appeal:** **FIRST PARTY**

**Observer:** None

**DATE OF SITE INSPECTION:** 10<sup>th</sup> March 2016

**INSPECTOR:** Dermot Kelly

## **1. SITE LOCATION**

The subject site is located at lands adjacent to Units 1 to 5, Summerhill Road, Dunboyne, County Meath, as indicated on **APPENDIX A - LOCATION MAP**.

## **2. SITE DESCRIPTION**

**2.1** The subject site lands in a prominent location in the centre of Dunboyne village are approximately 19 square metres in area – and are located adjoining Units 1 and 5 (at ground and first floor respectively) in an existing two-storey commercial development (Units 1 to 6 – area 350 square metres), and are also adjacent to O'Dwyers Public House to the south.

**2.2** The Planning Report for the Planning Authority under 'Site Location and Description' stated as follows:

'The subject site with a stated area of 0.0019 hectares is located along Summerhill Road, Dunboyne. The holding comprises of a 4 unit mixed use development which presently comprises of a betting office, restaurant above and retail unit/café at ground floor. The site itself is positioned adjoining Unit 1 at ground floor and the restaurant at 1<sup>st</sup> floor with O'Dwyers public house adjacent.'

**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 for 15 square metres ground floor retail extension to Unit 1 with new shop frontage, and 14 square metres first floor extension to Unit 5 to create an enclosed smoking area with a feature rooflight, at lands adjacent to Units 1 and 5, Summerhill Road, Dunboyne, County Meath.'

- The submitted Proposed Ground Floor Plan and Proposed First Floor Plan drawings indicating Units 1, 2, 3 and 4 at ground floor level, and Units 5 and 6 at first floor level and the Proposed Extension to Unit 1 – 15 square metres and the Proposed Smoking Terrace – 14 square metres for Unit 5 above, are noted.
- The submitted Architect's Report stated as follows:  
 'The planning application proposes a ground floor extension to the existing retail unit of 15 square metres with a first floor extension of 14 square metres to facilitate an enclosed smoking terrace as an extension to the existing restaurant.  
 The proposed development will act/provide an infill between the existing retail frontage and that of the adjoining public house.'

### **3.2 Further Information Request**

The Planning Authority by letter dated 3<sup>rd</sup> July, 2015 sought Further Information including as follows:

1. The Planning Authority is of the opinion that the design solution as presented is inappropriate having regard to the prevailing form immediately adjacent to the development proposal. Accordingly you are requested to submit proposals to ensure appropriate assimilation with the buildings in the vicinity, which are relatively traditional in appearance. You are also advised to be cognisant of the impacts of any proposal on O'Dwyers Public House.
2. You are requested to examine the cumulative impacts of parking associated with existing and proposed uses on site, which should entail an assessment of car parking provision for the existing uses on the landholding i.e. retail, restaurant and betting office.....'

### **3.3 Further Information Submission**

- The Further Information Submission included stating:  
 'The design has been changed to allow for the Ground Floor shopfront height and scale on the existing property to be carried through on the proposed extension.  
 The first floor glazing will be separated from the ground floor façade fenestration and this glazing will line up with the existing windows so that the façade lines follow through between both elements.' and also

- ‘The ground floor retail area is 155m<sup>2</sup>. The first floor is 195m<sup>2</sup>. Total area 350m<sup>2</sup>. Meath Development Plan (Table 11.9) requirements: Ground floor 1/20m<sup>2</sup> = 8 spaces. First floor 1/5m<sup>2</sup> of dining area (approx. 105m<sup>2</sup>) = 21 spaces Total: 29 spaces.  
It is proposed to increase the area over 2 floors by 29m<sup>2</sup> or 8% of the existing area. This extension would (based on Table 11.9) required the following additional spaces: Ground Floor 15m<sup>2</sup> = 1 space. First floor 14m<sup>2</sup> = 1 space (non-dining ancillary smoking area) Total: 2 spaces.  
We would propose a financial contribution in lieu of the 2 spaces required relating to this extension as no car parking can be provided with this application.’
- The Further Information Submission regarding the adjacent O’Dwyers Public House stated that the gable sign was not the only advertising opportunity for the Public House and that the existing window in the gable of the Public House served a toilet area, and ‘The area in question has always remained in the ‘take’ of the landlord and has never been part of a tenant take. The Tenants have a requirement in their lease to manage all their waste internally within their units and that has always been the case.  
The restaurant has a stipulation that their waste is to be managed within their unit and in practice this restaurant like most restaurants, will have their waste removed on a daily basis. Therefore, this area in question was never intended or has never been used as a waste storage area and is within the Landlord’s take.’

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

##### **4.1 Third Party Submission on Planning Application**

The Submission of the owner of the adjacent O’Dwyers Public House stated as follows in regard to the proposed development:

‘It will block our signage on our gable end of the building and this is where all our potential advertising will be and also our only signage for the building.

It will block our only window for our bar area which will block out all the light to that side of the building.

The units use this area for their bins and I feel this will be a potential health and safety issue as there is no alternative to place their bins anywhere else.’

## **4.2 Irish Water Report**

This report, dated 8<sup>th</sup> June, 2015 included stating that 'The applicant shall be required to submit alternative proposals for wastewater drainage for the development as specified'.

## **4.3 Road Design Report**

This report, dated 15<sup>th</sup> June, 2015 stated as follows:

'No objection in principle to the extension, however it should be established what the need for the existing manhole is before it is removed and relocated. Applicant should also demonstrate that parking requirements are met in accordance with County Development Plan.'

## **4.4 Planning Report for Planning Authority**

- The Planning Report, dated 2<sup>nd</sup> July, 2015 included documenting the Planning History of the subject site/area and the Zoning Objective for the area in the 2009-2015 Dunboyne/Pace/Clonee Local Area Plan and the Car Parking requirement for restaurant/retail space in the Development Plan, and also noted the Third Party Submission and Technical Reports.
- The design of the proposed extension was considered inappropriate and Further Information was recommended in this regard. Under 'Access and Car Parking' the Report included stating:  
'The Road Design Section have submitted a report wherein no objection is expressed subject to the applicant demonstrating that adequate car parking can be provided and a full breakdown of the uses and the car parking provision on the holding.  
Section 11.9 of the County Development Plan 2013 details the car parking requirement for restaurant use which is 1 per 5 square metres of dining area and 1 space per 20 square metres of retail space. The applicant should be requested to demonstrate that adequate car parking is available to serve the existing permitted and proposed uses within the whole building.'
- It was recommended that Further Information be requested in regard to design of the proposed development and 'impacts of any proposal on O'Dwyers Public House' and in regard to car parking provision for the existing and proposed uses on site.

#### **4.5 Third Party Submission on Further Information Submission**

The Submission received is noted and stated as follows:

'This development no matter what material it is built from, will completely block out our gable end wall signage and will block out the light and the view for our only side window to the bar.

Our O'Dwyers sign and our food sign will be completely blocked out when you enter the junction from the Navan Road side of the village.

All the bins will be left outside our window, which happens at the moment, meaning we cannot open our windows as there is a smell from the bins.'

#### **4.6 Road Design Report on Further Information Submission**

This report dated 23<sup>rd</sup> October, 2015 stated as follows:

'The Further Information received does not address the Further Information Request on parking provision. The applicant was requested to show what parking provision exists at present for the existing uses and what future parking is available. It appears that the parking area to the rear may belong to the public house or shared.

I recommend refusal unless this is clarified.'

#### **4.7 Planning Report on Further Information Submission**

This report dated 9<sup>th</sup> December, 2015 included stating as follows in regard to the revised design of the proposed extension:-

'No attempt has been made to address the matters raised and in that context it is considered that the proposal represents an inappropriate form and if permitted would set an undesirable precedent for similar development. Permission should be refused on this basis.' and also 'it has not been demonstrated that there is adequate car parking to accommodate the development. Refusal is recommended.'

#### **4.8 Notification of Decision of Planning Authority**

The Planning Authority, Meath County Council, issued a notification of decision to **REFUSE PERMISSION** for the proposed development for Reasons and Considerations (2) as follows:

1. The proposed development entails the construction of a two-storey relatively contemporary extension with a feature roof light within a traditional streetscape in the centre of Dunboyne. Having regard to its inappropriate design solution, it is considered that the proposed development would constitute a visually obtrusive feature, would

seriously injure the amenities of the area and of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The subject site is considered to be inadequate in area to provide for satisfactory on site car parking facilities to cater for development of the scale proposed. Accordingly, the development proposal would generate roadside car parking, which would endanger public safety by reason of obstruction to road users and would, therefore, be contrary to the proper planning and sustainable development of the area.

## 5. APPEAL GROUNDS

### First Party Appeal

- The First Party Appeal Grounds included stating as follows:  
‘We wish to appeal the decision of Meath County Council on the following grounds: Reason 1: Design Rationale.  
Reason 2: This is a minor extension to an existing mixed use premises in which no on-site car parking currently exists.  
There are numerous car parking facilities in the vicinity of the site which cater for this minor extension.  
There is no possibility of this minor development being a danger to public safety.’
- The Appeal Grounds submitted in regard to the proposed design:  
‘It is now proposed to further amend the design to provide a traditional treatment to the proposed elevations (as outlined in AWL drawings 15-10-PLA-2000, 2001 which accompany this appeal).  
The shopfronts will now have a traditional framing in hardwood with pilasters and architraves to match the existing. The first floor windows will be sash windows with nap render surrounds to match the existing. The façade will be painted render again to match the existing façade.’
- The Appeal Grounds submitted in regard to car parking:  
‘According to the car parking standards in the Meath County Development Plan 2013-2019, the proposed extension will require a single car parking space:  
Non-Food Retail: 1 space per 20 square metres gross floor area.  
The proposal seeks a 15 square metre retail extension at the ground floor which equates to a single space. Restaurants: 1 space

per 5 square metres of 'dining area'. The first floor extension entails the provision of an enclosed smoking terrace. It is not a dining area and therefore no car parking is required.'

- The Appeal Grounds submitted that 'there is an abundance of public car parking areas available in the vicinity of the main square, all within a two minute walk of the proposed restaurant' and also 'The lack of a single car parking space required for the proposed development will in no way endanger public safety. As outlined above there are plenty of on-street and off-street car parking spaces in the village which will cater for the proposed development. There will be no obstruction of road users.'

## **6. APPEAL RESPONSES**

### **6.1 Appeal Observation**

No Appeal Observation was received.

### **6.2 Planning Authority Appeal Response**

This Appeal Response received 12<sup>th</sup> February, 2016 included stating: 'The Planning Authority does not accept that the Eurospar building in the village is an appropriate comparator to this proposal. The amended design submitted with the appeal does little to address the issues expressed by the Planning Authority.

A report was received from the Roads Design Section, which stated that the FI request has not addressed the matters raised in the further information request and failed to provide a breakdown of the car parking associated with the existing and proposed uses on the holding. On that basis it was not demonstrated that there is adequate car parking to accommodate the development.'

## **7. PLANNING HISTORY**

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

*Under DA20342* – Permission was granted for a two-storey commercial development comprising ground floor retail and first floor office use and including ancillary site and ground works on vacant site.



*Under DA50227* – Permission was granted for change of ground floor units 1 and 2 from retail to medical centre use in previously approved scheme (DA/20342) within two-storey commercial development.

*Under DA60041* – Permission was granted for (1) Change of ground floor units 1 and 2 to a single unit for retail purposes. (2) Change of ground floor elevation of shop front of units 1 and 2 by lowering cill heights to plinth level and removal of door to Unit 2 and replacing it with window.

*Under DA60252* – Permission was granted for change of use of existing ground floor unit from retail to betting office (105 square metres), together with minor alterations to shop front, external fascia level signage and 3 no. satellite dishes fixed to rear gable wall at Units 3 and 4.

*Under DA131025* – Permission was granted for change of use from Retail usage to Retail/Restaurant usage and all associated site works.

## **8. DEVELOPMENT PLAN / LOCAL AREA PLAN**

The provisions of the 2013-2019 Meath County Development Plan and the 2009-2015 Dunboyne/Pace/Clonee Local Area Plan which remains in force, have been considered and in particular the following provisions:-

The ‘B1’ land use zoning objective in the *Local Area Plan*:

*‘To protect and enhance the special physical and social character of the existing town and village centres and to provide for new and improved town centre facilities and uses.’*

*Section 11.9 of the Development Plan* which includes a car parking requirement of 1 space per 5 square metres of Restaurant dining area and 1 space per 20 square metres of Retail space.

## **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 in a prominent location in the centre of Dunboyne village are approximately 19 square metres in area – and are located adjoining Units 1 and 5 (at ground and first floor

respectively) in an existing two-storey commercial development (Units 1 to 6 – area 350 square metres), and are also adjacent to O'Dwyers Public House to the south.

- The proposed development comprises as specified in the Public Notices: 'Permission for 15 square metres ground floor retail extension to Unit 1 with new shop frontage, and 14 square metres first floor extension to Unit 5 to create an enclosed smoking area with a feature rooflight, at lands adjacent to Units 1 and 5, Summerhill Road, Dunboyne, County Meath.'
- The submitted Architect's Report stated as follows:  
'The planning application proposes a ground floor extension to the existing retail unit of 15 square metres with a first floor extension of 14 square metres to facilitate an enclosed smoking terrace as an extension to the existing restaurant.  
The proposed development will act/provide an infill between the existing retail frontage and that of the adjoining public house.'
- I note the Planning Report for the Planning Authority requested revised design proposals and also stated as follows:  
'Section 11.9 of the County Development Plan 2013 details the car parking requirement for restaurant use which is 1 per 5 square metres of dining area and 1 space per 20 square metres of retail space. The applicant should be requested to demonstrate that adequate car parking is available to serve the existing permitted and proposed uses within the whole building.'
- The Planning Report on the Further Information Submission considered that the revised design proposals were inappropriate and that adequate car parking was not demonstrated. The notification of decision to **REFUSE PERMISSION** for the proposed development was for Reasons and Considerations (2) as follows:
  1. The proposed development entails the construction of a two-storey relatively contemporary extension with a feature roof light within a traditional streetscape in the centre of Dunboyne. Having regard to its inappropriate design solution, it is considered that the proposed development would constitute a visually obtrusive feature, would seriously injure the amenities of the area and of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The subject site is considered to be inadequate in area to provide for satisfactory on site car parking facilities to cater for development of the scale proposed. Accordingly, the development proposal would generate roadside car parking, which would endanger public safety by reason of obstruction to road users and would, therefore, be contrary to the proper planning and sustainable development of the area.
- The Appeal Grounds submitted in regard to the Proposed Design:  
‘It is now proposed to further amend the design to provide a traditional treatment to the proposed elevations (as outlined in AWL drawings 15-10-PLA-2000, 2001 which accompany this appeal). The shopfronts will now have a traditional framing in hardwood with pilasters and architraves to match the existing. The first floor windows will be sash windows with nap render surrounds to match the existing. The façade will be painted render again to match the existing façade.’
  - The Appeal Grounds submitted in regard to Car Parking:  
‘According to the car parking standards in the Meath County Development Plan 2013-2019, the proposed extension will require a single car parking space’ as calculated. The Appeal Grounds also submitted that ‘there is an abundance of public car parking areas available in the vicinity of the main square, all within a two minute walk of the proposed restaurant.’
  - The Planning Authority Appeal Response included stating:  
‘The amended design submitted with the appeal does little to address the issues expressed by the Planning Authority. A report was received from the Roads Design Section, which stated that the FI request has not addressed the matters raised in the further information request and failed to provide a breakdown of the car parking associated with the existing and proposed uses on the holding. On that basis it was not demonstrated that there is adequate car parking to accommodate the development.’
  - The provisions of the 2013-2019 Meath County Development Plan and the 2009-2015 Dunboyne/Pace/Clonee Local Area Plan which remains in force, have been considered and in particular the following provisions:-  
The ‘B1’ land use zoning objective in the *Local Area Plan*:  
‘To protect and enhance the special physical and social character of the existing town and village centres and to provide for new and improved town centre facilities and uses.’

*Section 11.9 of the Development Plan* which includes a car parking requirement of 1 space per 5 square metres of Restaurant dining area and 1 space per 20 square metres of Retail space.

- Further to site inspection and having regard to the limited extent (area 19 square metres) of the subject site which adjoins the existing two-storey commercial premises (area 350 square metres) – which as calculated in the Further Information Submission would require car parking provision of 29 spaces under the current Development Plan provisions though no car parking is provided – and where the proposed retail and restaurant extension development at ground and first floor level on the restricted site adjoins the existing Units 1, 2, 3 and 4 in the commercial premises as indicated on the Proposed Ground Floor Plan and Units 5 and 6 above as indicated on the Proposed First Floor Plan – in my opinion the proposed development would constitute overdevelopment of the restricted site which would be contrary to the proper planning and sustainable development of the area.
- In this regard I note the Further Information Submission proposing ‘a financial contribution in lieu of the 2 spaces required relating to this extension as no car parking can be provided with this application’. I note also the Further Information Submission in regard to the subject site that ‘this area in question was never intended or has never been used as a waste storage area and is within the Landlord’s take’ and that the Third Party Submission of the owner of the adjacent O’Dwyers Public House included stating that ‘the units use this area for their bins’ – see Photographs in Appendix B of this report.
- There is no existing car parking provision to serve the existing two-storey commercial premises (Units 1 – 6) which it is now proposed to extend at ground and first floor level on the adjoining subject site which has a restricted area of 15 square metres. I do not concur with the submitted Appeal Grounds that the availability of public car parking facilities in the vicinity of the subject site, should be considered a basis for permitting the proposed two-storey extension on such a restricted site to the existing two-storey commercial premises – which already occupies almost the entire site in the ownership of the Applicant as indicated on the submitted Proposed Ground Floor Plan drawing.

- In this regard I have noted the Submissions (2) on file of the owner of the adjacent O'Dwyers Public House premises that the proposed development by reason of close proximity to this premises would constitute overdevelopment of the restricted site and I concur including that the subject site in a prominent location in the village centre of Dunboyne is not an appropriate location for the storage of rubbish bins which should be removed therefrom.
- In conclusion while I note that the First Party Appeal Grounds included that the applicant is proposing a more traditional shopfront on drawings submitted with the appeal, I consider that as the proposed development would constitute overdevelopment of a restricted site as set out above that as such design is not the issue.

#### *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 2013-2019 Meath County Development Plan and the 2009-2015 Dunboyne/Pace/Clonee Local Area 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 ground floor retail and first floor restaurant extension to the existing two-storey commercial premises including Units 1 to 4 at ground floor level and Units 5 and 6 at first floor level as indicated on the submitted drawings – which existing premises includes no car parking provision though as submitted there is a car parking requirement of 29 spaces under the provisions of the 2013-2019 Meath County Development Plan, and where the proposed two-storey extension is located on a restricted site area of 15 square metres in the centre of Dunboyne Village, would constitute overdevelopment of the restricted site including by reason of close proximity to the existing O'Dwyers Public House premises to the south and would, therefore, be contrary to the proper planning and sustainable development of the area.

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**DERMOT KELLY**  
**SENIOR PLANNING INSPECTOR**

**21<sup>st</sup> April, 2016.**

**sg**

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