

## An Bord Pleanála



### Inspector's Report

**PL. 25 246319**

**DEVELOPMENT:**

(1) Change of previously permitted use of Warehouse under P. A. Reg. Ref. WH 01/1053 to Vehicle Testing Centre; (2) alterations and amendments to elevations; (3) two new entrances, one to the rear and one to the front; (4) placement of signage to front and rear facades and, (5) ancillary site works.

**LOCATION:**

Unit 15B Lough Sheever Corporate Park,  
Mullingar, Co. Westmeath.

### PLANNING APPLICATION

Planning Authority: Westmeath County Council.  
P. A. Reg. Ref: 15/6134  
Applicant: Joe Curran Commercials Ltd.,  
Decision: Refuse Permission.

### PLANNING APPEAL

Appellant: Joe Curran Commercials Ltd.,  
Type of Appeal: First Party Against Refusal of Permission.

**Date of Site Inspection:** 15<sup>th</sup> June, 2016.

**Inspector:** Jane Dennehy.

## 1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is within the Lough Sheever Business Park to the east of Robinstown and the railway line and north of the town centre of Mullingar. It is a short distance to the north east of the Midland Regional Hospital off the R 394 Castlepollard Road and south west of the N4.
- 1.2 The appeal site building is one of two similar large steel clad buildings with part brickface and micro-rob cladding on the front façade. The total stated floor area is 1,004 square metres and it is surrounded by a tarmac surface with some marked car parking spaces. Access to and from the R394 is a short distance from the site via an internal road within the business park. Pallisade fencing is located along the boundaries.
- 1.3 The Lough Sheever Corporate Business Park is a large partially incomplete industrial and commercial business park with internal access roads with landscaping and tree planting in some areas. Several plots had not been developed at the time of the inspection and a number of constructed units were unoccupied. There is a large distribution depot (LIDL) and the majority of the other units were in warehouse/distribution uses.

## 2.0 THE PLANNING APPLICATION.

- 2.1 The application lodged with the planning authority on 17<sup>th</sup> July, 2015 indicates proposals for the change of use of the permitted industrial unit incorporating a two storey office structure permitted under P. A. Reg. Ref. 01/1053 to use as a commercial vehicle testing centre. (CVRT) Included with the application is written consent from the owner of the property. Requests for additional information and clarification of additional information were issued and responses were received on 9<sup>th</sup> November, 2015 and 29<sup>th</sup> January, 2016.
- 2.2 According to the application submissions:
- The existing entrance on the southern frontage is to be retained and a new six metre wide entrance with a sliding gate is to be opened at the northern end of the site.
  - HGV and LGV waiting lines are indicated on the plans and parking spaces along the south eastern and south western boundary.
  - The total internal space subject to the proposal for change of use to a testing centre is 594 square metres in area of which 87 square metres at upper floor level is office and ancillary space. The ground floor is which is to be subdivided by erection of a block wall. The subdivided space is to be fitted out with testing equipment along two testing lanes, one for HGVs and the other for smaller commercial vehicles.

- According to further information submission of 9<sup>th</sup> November, 2015, the proposed test centre system is based on the CVRT guidelines for CVRT legislation which are outlined with corresponding details shown on a site plan. A rolling system is operated with two vehicles are tested (half hour for smaller vehicles in one lane and one hour for larger vehicles in the other lane) while three are in the waiting line. The entry point is at the rear and the exit is at the front. The unused space is to be allocated to storage.
- On the northern front façade, roller shutter doors on are to replace existing windows and signage for the CVRT and 'Joe Curren Commercials'. The reports of the area engineer on the application and supplementary submissions indicated concern as to capacity of the site for large vehicle turning and circulation through the site to from the entry through to the exit, and in particular about large vehicle stacking/waiting/access.
- Twenty six parking spaces would exceed the requirements of the development according to the submission of 9<sup>th</sup> November, 2015. Six are required for staff and nine spaces are for staff and visitors, and ten to thirteen for after testing parking and one space to the front., thirteen for public parking required.
- A swept path analysis in the clarification of submission, lodged with the planning authority on 29<sup>th</sup> January, 2016 which included some alterations to the internal layout.

2.3 According to the final report of the Area Engineer, the swept path analysis is unclear and it shows overlap of the boundary at the north east corner; there is insufficient space for manoeuvres and parking within the site. As a result internal business park roadway would be used and the proposed development would endanger public safety by reason of traffic hazard is contrary to Policy P-TM6 and sections 9.11 and 9.21.1 of the Mullingar Local Area Plan 014-2020.

2.4 The further information submissions included a planting scheme in response to the concerns of the planning authority about extensive hard landscaping, it being noted that tree planting required under the original grant of permission had not been implemented. The planning officer indicated concern as to adverse visual impact due to the extent of hard surface and waiting vehicular areas where the business park units are high specification and he comments that alternative undeveloped land elsewhere in the area may be suitable for the proposed development and could be considered.

2.5 The report of the Environment Section indicates no objection subject to requirements relating to storm water runoff to include installation a petrol

interceptor and general standards for construction management and waste disposal.

The report of the Environmental Health Officer indicates no objection subject to conditions.

- 2.6 A third party objection was received from Mr Alex Kane of Irish Town Service Station in which the concerns raised relate to additional traffic generation and turning movements at the entrance to the estate off the R394 leading to traffic hazard, insufficient site size to cater for large vehicles, insufficient parking and negative aesthetic impact.

### 3.0 **PLANNING HISTORY:**

- 3.1 **P. A. Reg. Ref. 01/1053:** Permission was granted on 25<sup>th</sup> January, 2002 for an industrial unit incorporating two storey office space and site works subject to twenty three conditions.

Condition No 13 contains a requirement for nineteen car spaces (2.5 m x 5 m) shown on submitted drawings to be provided and demarcated on the site and used for carparking only which excludes use for storage or parking of goods or heavy vehicles and a financial contribution. The reason provided is that of traffic safety.

Condition No 21 contains a requirement for a separate application for signage and illumination.

Condition No 23 contains a requirement for planting of ten half standard trees of indigenous species prior to completion of the (permitted) development.

### 4.0 **DECISION of the PLANNING AUTHORITY.**

- 4.1 By order dated, 19th February, 2016, the planning authority decided to refuse permission on the basis of the two reasons reproduced below:

(1) *"The proposed site has insufficient space to accommodate the manoeuvring and parking of all vehicles within the site and therefore would lead to the use of the internal roadway of the Lough Sheever Corporate Park for these purposes, this would endanger public safety by reason of traffic hazard and road obstruction. The development is contrary to policy P-TM6 and sections 9.11 and 9.21.2 of the Mullingar Local Area Plan, 2014-*

*2020 and to the proper planning and sustainable development of the area.”*

*(2) “The proposed development by virtue of loss of landscaping zones and the oversailing of these zones by the manoeuvring of larger vehicles on site will result in an adverse impact to the visual amenities of the business park. The proposed development is contrary to section 9.11 of the Mullingar Local Area Plan 2014-2020 and to the proper planning and sustainable development of the area.”*

## 5.0 THE APPEAL

5.1 An appeal was received from Micheal Hetheron on behalf of the applicant on 16<sup>th</sup> March, 2016. Attached are extracts, printouts from a video, extracts from the Mullingar LAP and a statement by the applicant.

5.2 With regard to Reason 1 of the decision to refuse permission it is argued:

- The autotrack report and drawings prepared by ORS, (clarification of submission on 29<sup>th</sup> January, 2016) show all movement being accommodated within the site. The view of the local authority is inconsistent with submitted evidence. Document VI was compiled using video evidence which demonstrates that turning movements can be accommodated within the site.
- The references to Section 9.11 of the LAP are inappropriate and irrelevant. It refers to minimum standards for Greenfield Sites. The site cannot be regarded as a greenfield site and it is a brownfield site.
- The applicant intends to rent the building from a third party. The floor area for which change of use is required is 587 square metres in area and it is identified. It comprises a floor area of 499.80 square metres on the ground floor and 87.37 on the first floor. The remaining 359 square metres is not included in the application.

With regard to section 9.11 of the LAP, two spaces per 100 m square floor area is required so there is a requirement for 11.74 spaces. The site plan can provide 17 staff and visitor spaces. In addition to this waiting lane there is provision for seven vehicles and three HGV waiting spaces.

5.3 With regard to Reason 2 of the decision to refuse permission it argued:

- That Section 9.11 is not relevant because the site is not a Greenfield site.
- The loss of landscaping is four square metres of green area the removal of which is necessary to enable the application to comply with Policy P – TM6 and circulation in the site. An additional planted area of 4 metres square on the southern boundary is proposed along increased tree and shrub planting around the carparking as required in section 9.11.1 of the LAP. (Extracts from Section 9.11.1 and 9.11.3 the Local Area Plan included in the submission are highlighted.)

5.4 In the accompanying document the applicant states that he has operated a test centre (at Oldcastle) for twenty five years and understands the circulation and parking requirements. It intended to expend testing operations at similar premises in Mullingar in space. He states that no ancillary parking will take place on the surrounding roads that the RSA inspected and approved the site and that relevant permissions will be sought in the event of changes in operations in the future.

## 6. **OBSERVATIONS OF THE PLANNING AUTHORITY.**

6.1 There is no submission from the planning on file.

## 7.0 **DEVELOPMENT PLAN.**

7.1 The operative development plan is the Westmeath County Development Plan, according to which the site location is within the area of the Mullingar Local Area Plan 2014-2020.

The site location which is within in the Lough Sheever Corporate Park is subject to the zoning objective: Enterprise and Employment.

7.2 Policies and objectives for enterprise and employment are set out in sections 3.6 according to which:

- it is policy to identify a range of options for specific enterprise and employment and to encourage re-use of brownfield lands.
- A redevelopment area for business and enterprise of 5.6 hectares - south of the town centre is identified in section 3.6.8
- Section 3.6.5, indicates that the Sheever Corporate Business Park is an area of 50 hectares in Mixed Use, comprising high specification business units, commercial uses, warehousing and

distribution units. There are thirty four units and twelve hectares are available for enterprise and employment.

- Policy TM6 is to ensure that the safety of road users, including motorist cyclists and pedestrians will be a primary consideration in the design and or improvement of roads and in the assessment of planning application for new developments.

7.3 Development management standards for Industrial and Commercial Development are set out in Section 9.11

## 8.0 ASSESSMENT

8.1 There is no objection in principle to a CVRT use within the business park. The main concerns are of a technical nature and the issues that are central to the determination of the decision are:

Vehicular safety and Site Capacity.

- Size and configuration.
- Greenfield site location.
- Subdivision.

Visual impact and amenity.

### 8.2 Vehicular safety and Site Capacity.

#### Size and Configuration.

It is noted that the applicant submits that the design standards for the proposed test centre are in accordance with the "*Guidelines for Premises and Equipment*", (RSA, March 2013). However achievement of any such standards does not necessarily imply that a proposal is satisfactory from a planning perspective.

8.3 Notwithstanding the swept path analysis provided with the clarification of information submission and appeal it is considered that the size and configuration of the site curtilage is not adequate or sufficient for the proposed use. The concerns of the planning authority as to potential for overlap and overspill of vehicles onto the adjoining access road are reasonable and cannot be eliminated. Of particular note is the restricted distance between the south west corner of the building and the boundary fence

8.4 The video prints submitted with the appeal do not demonstrate that HGVS such as long five axle vehicles can turn from the side to the rear of the building without backward and forward manoeuvres back and forward on approach along the side to the rear of the building and rear entrance doors, especially with the two lanes and the designated parking spaces occupied and with the proposed landscaping in place.

8.5 Greenfield Site.

The appeal site can be regarded as coming within the meaning of a Greenfield site the Lough Sheever Business Park having been relatively recently planned for and developed on Greenfield lands. It is reasonable for the planning authority to seek to apply the 'greenfield' policies and standards of Section 9.11. of the Mullingar Local Area Plan to the proposed development. To this end, the requirement on the part of the planning authority for adherence to the nineteen space parking provision provided for in the parent permission is reasonable.

8.6 It is noted that the application and description in the notices did not include alterations to the permitted parking layout, the condition attached to the prior grant of permission for provision for nineteen car spaces or proposals for HVG parking spaces other than in the test centre queueing lane.

8.7 Subdivision.

An additional issue of note although it is not addressed in the documentation available with the application or appeal is the proposed subdivision of the unit although it is noted that the applicant indicates that he intends to rent the entire building from the applicant. The proposed change of use would result in a split of occupancy given the proposal to subdivide the interior of the structure to accommodate the proposed change of use of part of the space as a CRVT centre. The total floor area of the structure is 1,004 square metres and the proposed change of use is to be applied to part of the ground floor (500 square metres) along with a supplementary area at first floor level (87 square metres) to a CVRT centre. The entire external curtilage is to be incorporated with the CRVT use through queuing, access and egress and parking involving vehicles to be tested, staff and visitor parking and deliveries. It would appear that any additional use of the remaining space could not be serviced by on-site parking.

8.8 According to section 9.11.1 of the Mullingar Local Area Plan, 2014-2020 the planning authority does not favour the splitting of occupancy on serviced sites and will consider the designation of sites for development of smaller cluster units as necessary. While the possibility of conflict with the Local Area Plan is of note, it is considered that possible subdivision of



the unit may exacerbate the concerns about the development capacity of the site in view the size and configuration.

8.9 In view of the foregoing, the first reason for the planning authority to refuse permission on the basis of insufficient space to accommodate the manoeuvring and parking of all vehicles within the site is supported. Owing to the consequential likelihood that of overspill onto the internal roadway in the park it is also agreed that the proposed development materially conflicts with Policy P-TM6 of the Mullingar LAP the conclusion that it would be used.

#### 8.10 **Visual impact and amenity**

It is noted from the Mullingar Local Area Plan that the objective for the Lough Sheever Corporate Park is for a high specification business park. The achievement of high aesthetic and amenity standards has been constrained by the high vacancy rate and prevalence of undeveloped sites within the park. The design and layout of high specification business parks includes semi parkland setting with high quality landscaping and tree planting. At the appeal site, it is noted that semi mature tree planting required by condition was not implemented.

8.11 While there is no objection to the proposed signage on that front facade it is considered that the proposed development would not contribute positively to the amenities of the business park. This is due to negative visual impact on account of a high concentration of HGV and commercial vehicles within the site and the potential for these vehicles to overspill onto the landscaped zones within the site and onto the internal roadway. In addition, the proposed replacement of windows on the front façade with industrial type doors to allow for vehicular access would have a negative impact. To this end, the second reason for refusal of permission attached to the planning authority decision is supported.

#### 8.12 **Appropriate Assessment Screening:**

The closest European Sites are the Lough Owel SPA and Lough Owel SAC and the Lough Enell SPA and Lough SAC. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

### 9.0 **CONCLUSION AND RECOMMENDATION.**

In view of the foregoing, it is recommended that the planning authority decision to refuse permission by upheld and that the appeal should be rejected. A draft order is set out overleaf.

## **DECISION**

**Refuse Permission on the Basis of the Reasons and Considerations set out below.**

### **REASONS AND CONSIDERATIONS.**

1. It is considered that by reason of the size and configuration there is insufficient capacity within the site for the proposed CVRT centre and the associated manoeuvring and parking of the large HGV and commercial vehicles which would lead to the use of the adjoining internal roadway within the business park. As a result the proposed development would endanger public safety by reason of traffic hazard, would be in conflict with Policy P-TM6 of the Mullingar Local Area Plan, 2014-2020 which seeks to ensure the safety of road users, including motorist cyclists and pedestrians is a primary consideration in the design and or improvement of roads and would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development would have adverse negative impact on the visual amenities of the site and environs within the business park by reason of the size and configuration of the site which would be insufficient to accommodate the proposed development resulting in landscaped space being removed and/or traversed by vehicular manoeuvres, particularly those of the larger vehicles brought to site for testing. The proposed development would therefore be seriously injurious to the visual amenities of the area, would not satisfy the minimum requirements and objectives regarding layout parking and landscaping in industrial developments in Section 9.11.1 of the Mullingar Local Area Plan 2014-and, would be to contrary to the proper planning and sustainable development of the area.

**JANE DENNEHY**  
**Senior Planning Inspector**  
**17<sup>th</sup> June, 2016.**