



An
Bord
Pleanála

Inspector's Report PL91.248414

Development	Extension to public house, car park, play area, wastewater treatment system and associated works.
Location	Lombardstown & Ballyvoren, Pallasgreen, Co.Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	16/868
Applicant	Donald Riordan
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	1 st Party v. Condition
Appellant	Donald Riordan
Observer(s)	None
Date of Site Inspection	07/07/17
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The site to which the application refers is at the junction of two local roads in the townlands of Lombardstown and Ballyvorreen c.3.2km to the south-east of Caherconlish and 6.3km to the north-east of Pallasgreen in south-east Limerick.
- 1.2. The existing two storey public house is located in the south-eastern most corner of the site with a container separate from the main building providing toilet facilities immediately to the west (accessed via steps). There is a stone structure to the rear of the main building which is used for purposes ancillary to the licenced premises. A car parking area is provided to the rear with the remainder of the site under grass.

2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the 16/09/16 & 27/09/16 with further details submitted 14/03/17 following a request for further information dated 09/11/16.
- 2.2. The proposal entails the ground floor extension to the public house from an existing floor area of 75.90 sq.m. to 265.98 sq.m. with a 1st floor extension providing for new landing and shower room. The latter will increase the floor area from 41.75 sq.m. to 57.59 sq.m.
- 2.3. The proposal also entails an extension to the car park and provision of a play area.
- 2.4. A new effluent proprietary treatment system is to be installed. The original location was to be on the lands on the opposite side of the road. This was amended by way of further information and is now proposed to be located in the northern corner of the site.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 17 conditions.

Condition 3 requires a financial contribution of €20,664 in accordance with the Section 48 Development Contribution Scheme.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The **1st Planner's** report recommends a request for further information regarding the proposed effluent treatment system, justification for the proposal and nature of proposed play area. The **2nd report** following further information recommends a grant of permission subject to conditions.

3.2.2. Other Technical Reports

Executive Engineer, Environment Section has no objection to the amended plans for the effluent treatment system subject to conditions.

Fire and Building Control has no objection.

3.3. **Prescribed Bodies**

Irish Water has no objection

3.4. **Third Party Observations**

None

4.0 **Planning History**

Details of the planning history on the site are set out in the 1st Planner's report on file. Permission was previously granted for the alterations and extension to the public house and provision of a car park under ref. 06/2801. Modifications to the approved plans was granted under ref. 11/703. Applications for extension of duration of the said permissions were refused.

5.0 **Policy Context**

5.1. **Limerick County Development Plan 2010**

Objective ED O25: It is the objective of the Council to normally permit development proposals for the expansion of existing industrial or business enterprises in the countryside where:

- (a) The resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area; and
- (b) The proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in the plan.

5.2. Natural Heritage Designations

None in the vicinity

6.0 The Appeal

6.1. Grounds of Appeal

The 1st Party appeal is against condition 3 which requires a financial contribution of €20,664. The Board is requested to consider reducing the figure. The submission can be summarised as follows:

- The additional floor area is 168.14 sq.m. The calculation is incorrect. The basis for the 205.64 sq.m. floor area is unclear.
- The applicant is required to install an effluent treatment system. There is no Council system to connect to nor will there be in the future.
- The applicant has to lay a storm water sewer across recently acquired lands. The council is not providing storm water sewer services in the area.
- The 1st floor area will not be accessible to members of the public.
- A substantial part of the floor area comprises modern day toilets which are needed to be provided at level entry from the bar area. Such ancillary spaces should not be treated the same as the drinking area. The same argument can be made in terms of the kitchen, boiler rooms, storage etc.
- The applicant will be providing car parking.

6.2. **Planning Authority Response**

The contribution levied is correct.

6.3. **Observations**

None

7.0 **Assessment**

- 7.1. The current appeal is made under Section 48(10)(b) of the Planning and Development Act, 2000 as amended. Consequently, the question to be addressed is whether the terms of the development contribution scheme have been properly applied by the planning authority in its imposition of condition No. 3, only. The planning authority in its response to the section 132 notice from the Board refers to page 17 of the Development Contribution Scheme and states that the contribution levied is correct.
- 7.2. The Limerick City and County Council Development Contribution Scheme 2017-2021 refers. Appendix A sets out the contribution required for commercial development in three different locations – City Centre, Regeneration and Other. The site in question would appropriately fall within the third category ‘Other’ and the proposal would come under the heading ‘retail/restaurant/takeway & other commercial not included in any other class’. Thus a contribution of €100 per sq.m. is applicable.
- 7.3. As noted in Section 2 of the scheme charges in respect of water and wastewater facilities are no longer applied as their responsibility falls to Irish Water. Management of storm water remains a responsibility of the local authority and provision for contributions towards investment in this infrastructure is included in the current scheme. There are no exemptions or reductions detailed in sections 8 and 9 of the scheme allowing for a reduction in the levy where such provision is being made by the applicant.
- 7.4. The applicant submits that areas which are ancillary to the public bar such as storage areas and improved toilet facilities should not be subject to the same levy as such public areas. Whilst the note attached to the relevant contribution requirement does provide for a reduction/exemption for open storage/hard surface

commercial space development the scheme does not differentiate between public and non- public floorspace. Therefore, I submit that the levy is applicable for the additional floorspace in its entirety. I note that the 1st floor is used for purposes ancillary to the public house use with the rooms used as staff facilities and office. Thus the additional floorspace at 1st floor level would also be commercial in nature. The carparking area is not subject of the levy.

- 7.5. Whilst the applicant may query the basis for the floorspace used by the planning authority in its calculation of the contribution it is reasonable to assume that it adopted the figure given in the planning application form. I would advise the Board that there appears to be a marginal discrepancy in that calculated for the ground floor which I submit is 190.08 sq.m. rather than 190.80 sq.m. as stated.
- 7.6. Reference is made in the grounds of appeal to the ancillary/utility building which is separate from and to the rear of the main building, the floor area of which will be subsumed into the extension. I can confirm that this structure is on site. This does not appear to be accounted for in the existing ground floor area of 75.9 sq.m. The stated area of this building is 30.28 sq.m. In addition the toilet accommodation, which is not delineated on the site plans but which I can confirm is on site, is made up of a 2.4 x 6m container unit accounting for 7.2 sq.m. and which will be removed to facilitate the development. I consider it reasonable that these structures be included in the existing floorspace.
- 7.7. In the interests of clarity, working from the drawings accompanying the application, the details provided in the grounds of appeal in terms of the store and toilet block and my site inspection, I submit that the following apply:

	Existing (sq.m.)	Proposed (sq.m.)	Additional (sq.m.)
Ground Floor (existing public house)	75.90	265.98	
Store building	30.28		
Toilet Block	7.2		
1 st Floor	41.75*	57.59	
Total	155.13	323.57	168.44

* I note that the existing 1st floor area is stated to be 43.45 sq.m. in the grounds of appeal.

Thus I calculate the additional floorspace subject of the contribution requirement is 168.44 sq.m. At a rate of €100 per sq.m. the contribution is calculated as being €16,844.

8.0 Recommendation

- 8.1. I recommend that the Planning Authority be directed to **AMEND** condition 3 for the following reasons and considerations.

CONDITION 3:

The developer shall pay to the planning authority a financial contribution of €16,844 (sixteen thousand, eight hundred and forty four euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the

planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

REASONS AND CONSIDERATIONS

It is considered that the planning authority properly applied the terms of the Limerick City and County Council Development Contribution Scheme 2013-2017, but that the calculation of the financial contribution by the planning authority, based on the stated floor area of the extended premises, did not take account of the full extent of the floor area of the existing buildings on the site, namely the store and toilet block. It is estimated that the existing floor area is 155.13 square metres and that the proposed floor area will be 323.57 square metres. On the basis of these calculations, a development contribution is payable on 168.44 square metres. At the rate of €100 per square metre, it is calculated that the amount of contribution required by condition number 3 should be €16,844. Condition number 3 of the permission granted under planning register reference number 16/868 should accordingly be amended to reflect this reduction in the amount of the development contribution to be paid to Limerick City and County Council.

Pauline Fitzpatrick
Senior Planning Inspector

July, 2017