



An
Bord
Pleanála

Inspector's Report PL.08.248682

Development	Single storey building for use as a café will include partly covered external seating area, signage free standing totem sign and associated site works.
Location	Manor West Retail Park, Manor West, Tralee, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	17/250
Applicant(s)	Bryant Park QIAIF ICAV
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	None
Date of Site Inspection	26 th July 2017
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The subject site is located within an established retail warehousing park which is located within the build up area of Tralee and to the south-west of the town centre.
- 1.2. The appeal site is located at the vehicular entrance to the established retail park and is currently paved and landscaped. This area includes hard landscaping, a small amount of green landscaping, over head lighting and flagpoles.
- 1.3. The size of the overall subject site is approximately 0.175 ha (0.43 acres) and the shape of the site is irregular.

2.0 Proposed Development

- 2.1. The proposed development provides for the following;
 - a. Construction of a single storey building with a floor area of 203 sq. metres for use as a café.
 - b. The café will be used for the sale of hot and cold food and beverages for consumption on / off the premises.
 - c. External seating.
 - d. Signage
 - e. Free standing totem sign.

The maximum parapet height of the proposed café is approximately 6 metres above ground level. The proposed café building is a flat roofed design and the maximum height is 4.9 metres above ground level. The prominent elevation materials to the front of the proposed café include glazing and natural stone panels.

The height of the proposed free standing totem sign is approximately 7.360 metres high.

3.0 Planning Authority Decision

The Planning Authority decided to **refuse** planning permission for a café. The reasons for refusal include;

1. The proposed development would be located within an area zoned Retail Warehousing in the current Tralee Development Plan where it is the policy of the Planning Authority to limit development to designated uses. The proposal to locate a café on this site would be contrary to this zoning. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.
2. The proposed development does not include for the provision of car parking to serve the proposed café. In the absence of an assessment of car parking for the Manor West Retail Park, the Planning Authority is not satisfied that the additional parking that would be generated by the proposed development would not cause traffic congestion. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

3.1. Planning Authority Reports

3.1.1. The main issues raised in the planner's report are as follows;

Area Planner

- The proposed use is in an area zoned 'retail warehousing' and the zoning matrix for this zoning provision does not provide for a café use.
- It is considered that the proposal would have a significant negative visual impact.
- No car parking provision in accordance with Section 12.27 and Table 15 of the Tralee Development Plan. This may give rise to traffic issues.

- The proposal would not be seriously injurious to established residential amenities in the local area.
- No likely potential for significant effects to Natura 2000 sites. No AA required.
- The extent of the development would not require an EIA.

3.1.2. Tralee Municipal District Office; - Applicant requested to submit full details of car parking numbers for the retail park to comply with development plan standards.

3.1.3. Fire Authority; - No objections.

3.1.4. Submission; - There is a submission from the HSE who have no objections subject to conditions.

3.2. **Third Party Observations**

There are no third-party objections.

4.0 **Planning History**

- L.A. Ref. 98/305367 – Permission **granted** for a 100-bedroom hotel, tavern, car showrooms, sports pavilion and retail warehouse park.

5.0 **Policy Context**

5.1. **Development Plan**

The operational Development Plan is the Tralee Town Development Plan, 2009 – 2015.

The appeal site is zoned 'Retail Warehousing'. This zoning objective permits retail warehousing, and other structures needed for the sale of bulky goods, garden centres and car parking.

Section 11.25 sets out the matrix of the permissible uses

Section 12.27 and Table 15 set out car parking standards.

6.0 The Appeal

The following is the summary of a first party appeal submitted by **BMA**, Planning Consultant, on behalf of the applicant;

Proposed use compatible with zoning objective

- Although a café use is not listed on the zoning matrix for retail warehouse the Town Development Plan states that uses not listed will be considered on their own merits.
- It is not clear on what basis the Planning Authority decided that the location of a café would be contrary to the zoning.
- It is submitted that the setting up a costa coffee pod within a retail park is entirely consistent with the pattern of development across the country.
- It is contended that customer's main functions in the area is shopping and that the café will facilitate a 'grab and go' type of activity.
- Seating is provided to allow customers to linger in the space which currently serves no purpose.
- There is a planning rationale supporting this café.
- The proposed development would be compatible with the established pattern of development in the area.

No threat to the vitality and viability of Tralee Town Centre

- The Town Development Plan recognises that Manor West is an economic function beyond its retail warehousing zoning.
- Manor West is a designated a secondary retail area in the retail hierarchy.
- The retail hierarchy takes a more broader view of development whereas the zoning takes a narrower focus on its 'bulky goods' function.
- Manor West is the only zoned retail warehouse park in the development plan area.

- It is contended that Section 3.9.3 of the Town Development Plan has been applied incorrectly.
- It is submitted that the proposed café only caters for customers of the retail warehousing park and is different to a town centre café.
- It is contended that the nature of the café, which is secondary and ancillary to the overall Manor West, would not present a threat to the vitality or viability of Tralee Town Centre.
- In addition to the retail function there are entertainment uses including restaurants.
- The proposed use provides the opportunity to diversify the range of uses at Manor West and Bryant Park.
- It is submitted that if retail parks do not move with consumer expectations then they become stagnant and decline.
- The Town Development Plan has a planning objective referred to as the Manor West Action Area Plan 2000. It is an objective to take opportunities to continue to improve and consolidate the park.
- Section 10.4 of the current Development Plan refers to the Action Area Plan placing the emphasis on achieving objectives.
- A notable feature of the Action Area Plan is the emphasis of non-retail uses.

The proposal is consistent with coffee pods in other retail parks

- The submitted Table 2 includes a list of coffee operators in established retail parks throughout the country. This illustrates the trend for this development across the country.
- Manor West has a broader retail function which makes it different from retail parks which are solely bulky goods.
- A precedent case is appeal ref. 245905. This planning application for a costa coffee café in a retail park in Naas was refused permission by Kildare County Council. However, following an appeal the Planning Inspector considered that the proposed use was compatible with the zoning objective of the appeal site and that the extensive car parking that exists would be adequate. The

Planning Inspector recommended that permission shall be granted and the Board decided to grant permission.

Traffic Congestion

- There are currently 1,076 car parking spaces at Manor West.
- The proposal will not result in the loss of any existing car parking spaces.
- This is important as in many cases for coffee pods illustrated in Table 2 there is a loss of car parking spaces to facilitate the café.
- It is submitted that based on the standards in the Tralee Town Development Plan, 2009 – 2015, the current application would require 16 no. spaces.
- It is considered that as the proposed use is ancillary to the overall retail use of Manor West Retail Park, it is considered that the incidence of dual use / cross trips would be very high in this instance and the proposed café would not be a significant traffic generator.
- The Board has also taken the same view on this in relation to appeal ref. 245905.
- The Board are requested to approve the proposed development without the need for additional car parking spaces.

Active Management of Car Parking Demand

- It is submitted that it is not in the interest of Manor West Retail Park to have parking shortages and traffic congestion.
- It is submitted that the current parking provision is more than adequate for the vast majority of the time.
- It is submitted that at busy / peak periods car parking is managed.
- There are two overflow car parks available to the side of Woodies and the rear of Debenhams. The potential of these sites has been examined and they are likely to be developed in the future.
- The need for parking will be assessed and this may include deck level parking or surface parking or a combination of both.

- It is note worthy that there is staff parking available to the rear of units however a large portion of staff have been using public parking.
- Staff parking is now being encouraged / enforced.
- There is potential for additional car parking to the rear of the units.
- Vehicle registration survey equipment is being considered for safety / security purposes. This will also be useful for collecting information on parking demand and duration of stays.

Additional parking to serve proposed café can be provided

- Although the applicant considers that additional parking is not required. However, should the Board consider it necessary then a revised site layout drawing is submitted.
- This drawing would address parking concerns.

7.0 **Assessment**

- Principle of Development
- Traffic Impact

7.1. **Principle of Development**

In considering the principle of the proposed café use I would acknowledge that the Local Authority's first refusal reason effectively states that the principle of a café in an established retail warehousing park is unacceptable as it would be contrary to the zoning objective which is 'Retail Warehousing'.

The appeal site is located within the Manor West Retail Park and in accordance with the Tralee Town Development Plan, 2009 – 2015, the appeal site is zoned 'retail warehousing'. Section 3.9.3 of the Tralee Town Development Plan advises that it is imperative that the impact of retail parks on the town centre is limited by ensuring that only bulky household goods are permitted in retail parks. I would note that the

Retail Planning Guidelines recommend that the minimum floor space for a gross retail floor space is 700 sq. m.

The objective of the retail warehousing zoning provision, in accordance with the Development Plan, is to *'facilitate the recent trend in retailing patterns towards large stores on large plots with associated surface level car parking, selling bulky goods and other goods not traditionally provided in a town centre. This zoning objective permits retail warehousing, and other structures needed for the sale of bulky goods, garden centres and car parking'*.

Section 11.25 of the Town Development Plan sets out the 'Matrix of Schedule of Use' and I would note that a restaurant use is not permitted within the zoning objective for 'retail warehousing'. Furthermore, a café or coffee shop is not listed in any of the schedule of uses as such a restaurant use is the nearest use to a café.

The appeal submission makes the case that there are precedents for café's in retail warehousing parks nationwide, like the proposed development. I would acknowledge this point. In addition, the appeal submission sets out the case of a similar planning application to the current proposal whereby a Local Authority refused planning permission for a café in a retail park but the Board overturned this decision and granted permission for the café. In that appeal (appeal ref. 245905) the Board concluded that the provision of this café would not detract from the vitality and viability of the local town centre or the local neighbourhood centre.

In considering the principle of the proposed development, I believe a restaurant use is distinctly different from a café use. In this regard the current café proposal is more casual than a restaurant use as it is more suited to passing customers whereas a restaurant in my view is a destination use. This casual use would facilitate multi-trip shoppers to the retail park. I would also accept the arguments, in the appeal submission, that there is a precedent nationwide for this type of café located within a retail warehousing park. Overall I would consider that a café as proposed would be ancillary to the overall primary use of the retail warehousing park and that its use in

this location would not be contrary to the zoning objective. On this basis, I would not concur with the local authority's first refusal reason.

In conclusion, I would consider that the principle of the proposed development is acceptable.

7.2. **Traffic Impact**

The proposed development is a standalone café without any dedicated car parking provision. The applicant estimates that the proposed use would have a car parking requirement of 16 spaces in accordance with the provisions of the Town Development Plan. The Local Authority consider that the inadequate car parking provision could give rise to traffic issues.

The appellant makes the argument that for a number of reasons additional car parking is not required. These reasons include that there is sufficient car parking provision serving Manor West Retail Park. The overall number of car parking provision at the retail park is 1,076 spaces and the appellant submits that the car park is never full and it is contended that there is adequate space to accommodate 16 additional spaces. I noted at the time of my site inspection which was a midweek day at approximately lunchtime that there were significant levels of car parking availability within the retail park. In addition, it is argued by the appellant that the proposed café would attract dual use / cross trips whereby customers using the retail park would also use the proposed café and as such the proposed café trips would not generate any additional demand. As such I would consider that the proposed use would not generate any additional car parking demand. I would largely concur with this argument based on the scale of the proposed café and its location within a retail park.

The applicant also makes the case that the enforcement of staff parking would free up public parking spaces. In this regard, it is submitted that there is existing staff car parking available to the rear of the retail units however not all staff utilise these car

parking spaces and instead use the public parking spaces. The applicant submits that it is proposed to enforce staff car parking to the rear of the retail units.

Overall I would consider that there is ample car parking provision within the retail park to accommodate the proposed café use. I would consider that enforcing the staff parking will benefit the case for the proposed development.

However, should the Board consider that dedicated car parking provision is necessary for the proposed use the applicant has submitted a drawing illustrating a standalone car park for the proposed development. This drawing outlines car parking provision in accordance with the requirements of the Town Development Plan. This car parking provision could be incorporated into the proposed development by means of condition.

Overall I would not concur with the local authority's second reason for refusal.

8.0 Recommendation

8.1. I have read the submissions on the file, visited the site, had due regard to the Town Development Plan, and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

9.0 Reasons and Considerations

Having regard to the location of the proposed café use in a retail park area where there is extensive parking already available and to the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed single-storey building would not detract from the vitality and viability of Tralee town centre, would not be visually incongruous within the context of the existing pattern of development, would not have an adverse impact on residential amenity, would be acceptable in terms of traffic safety and convenience and would,

therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed 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 prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. Lighting shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public safety and to ensure a proper standard of development.

4. The use of the restaurant shall be restricted. Details of opening hours for the use hereby permitted shall be submitted to the planning authority for written agreement.

Reason: To protect the amenities of the adjoining properties.

5. Prior to commencement of development, details of the materials, colours and textures of all external finishes inclusive of fascia treatment and signage shall be submitted to the planning authority for written agreement.

Reason: In the interest of visual amenity.

6. No additional signs, symbols, nameplates or advertisements shall be erected on the proposed site without a prior approval of the planning authority whether or not such development would otherwise constitute exempted development.

Reason: In the interest of visual amenity.

7. Prior to the commencement of any works on site, the applicants shall ascertain and comply with all requirements of the Environmental Health Officers Department.

Reason: In the interests of public health.

8. The developer shall pay to the planning authority a financial contribution 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 the 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. Details of the

application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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.

Kenneth Moloney
Planning Inspector

30th August 2017