



An  
Bord  
Pleanála

## Inspector's Report PL17.248824

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<b>Development</b>	Change of use of ground floor storage unit to meat processing area and butchers store for preparation of cooked and cold meats
<b>Location</b>	Rear of 14 Brews Hill, Navan, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	NA170130
<b>Applicant</b>	Agnieszka & Grzegorz Cwiok
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kathleen Lambe, Mattie Nally, Donal & Anne Geraghty and Francis & Rosemary Reilly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	14 <sup>th</sup> September 2017
<b>Inspector</b>	Niall Haverty

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.084ha, is located at 14 Brews Hill in Navan Town Centre in County Meath.
  - 1.2. The site is occupied by a two storey terraced building to the front (north), with a two storey storage type structure to the rear (south) of the site. The area between the two building comprises a car parking and yard area. The southern half of the appeal site is wider than the northern half, as it appears to incorporate part of the rear garden previously associated with No. 13 Brews Hill.
- 1.3. The building to the front of the site has a retail unit at ground floor level, selling Polish food products, with three apartments at first floor level. An archway in the building provides vehicular access to the rear of the site.
- 1.4. The storage unit to the rear of the site has a total stated gross floor area of 282.9 sq m, with 155.8 sq m at ground floor level and a height of c. 7m. It has a rendered finish, with pitched roof, roller shutter door and window and a lean-to structure to the east constructed of corrugated steel.
- 1.5. There is a two storey dwelling to the east and a single storey dwelling to the west, with an Aldi supermarket located c. 30m further to the west and a large public car park located c. 35m further to the east. The Brews Hill area generally comprises a mix of residential and commercial uses with on-street car parking opposite the appeal site, on the northern side of Brews Hill. St Joseph's Primary and Secondary Schools are located to the south of the appeal site.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the change of use of an existing ground floor storage unit to a meat processing area and butchers store for the preparation of cooked and cold meats.
- 2.2. Letters from the applicants and the landowner were submitted with the application describing the nature of the proposed use. It states that quarters of beef and pork will be brought to the building to the rear and cut into retail cuts for sale in the shop. Some pork would also be cooked in the unit for sale in the shop. The letter states that only meat that is going to be sold in the shop will be prepared there and that all

waste, bone and trimmings would be kept indoors in refrigerated storage and removed in refrigerated vans.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. Meath County Council decided to grant planning permission, and the following summarised conditions are noted:

- C2: Prior to commencement of the development, proposals shall be submitted for the elimination of odour and fumes from the site.
- C3: No meat products shall be stored outside the processing unit at any time.
- C4: Noise levels emanating from the proposed site when measured at noise sensitive locations in the vicinity shall not exceed 45dB(A).
- C5: Meat processing unit shall only operate from Monday to Friday from 08:30am to 6:00pm and on Saturdays from 09:00am to 1:00pm.

#### **3.2. Planning Authority Reports**

3.2.1. The Planning Officer's reports can be summarised as follows:

- No details of odour control and ventilation have been provided. Condition to be included requiring details to be submitted for the written agreement of the Planning Authority.
- Condition to be included to ensure no waste meat is stored outdoors.
- Applicant has confirmed that waste meat will be collected by a licenced waste facility operator.
- No details to demonstrate that the street frontage shop has the benefit of planning permission, however given the established commercial use of the unit, the proposed butcher is considered acceptable.
- Adequate car parking has been demonstrated for the proposed use and existing apartments.

- No trucks will attend the site for deliveries.
- The applicant has stated that retention permission is being sought for changes to the structure from storage to processing and part change of use.
- Proposed development by itself or in combination with other plans and projects would not be likely to have a significant effect on European sites. A Stage 2 AA is not required.
- Application site is not within a flood risk zone.
- Development is acceptable and in accordance with the proper planning and sustainable development of the area.

### 3.3. Other Technical Reports

- Engineering: No objection.

### 3.4. Prescribed Bodies

- None.

### 3.5. Third Party Observations

3.5.1. Four third party observations were made by the appellants. The issues raised were generally as per the appeal, as well as the following:

- Odour issues.
- Possible vermin infestation (rats, flies).
- Proposed use would be more suited to an industrial estate.

## 4.0 Planning History

### 4.1. Appeal Site

#### 4.1.1. Reg. Ref. TP 2/80

Permission granted in 1980 for the erection of a shed to the rear of No. 14 Brews Hill. The stated use was storage for private use.

4.1.2. **ABP Ref. 32.57858; Req. Ref. TP 64/81**

Permission refused by the Board on appeal for the revision of plans for a store at 14 Brews Hill.

4.2. **Surrounding Area**

4.2.1. I am not aware of any relevant recent planning history in the surrounding area.

5.0 **Policy Context**

5.1. **Meath County Development Plan 2013-2019**

5.1.1. Navan is identified as a Large Growth Town 1 in the County's settlement hierarchy. Section 3.4.1 of the Development Plan states that Large Growth Towns are to accommodate significant new investment in transport, in economic and commercial activity and in housing. Navan is also designated as a Primary Economic Growth Town and a Level 2 centre in the Retail Strategy.

5.2. **Navan Development Plan 2009-2015**

5.2.1. The Navan Development Plan 2009-2015 would appear to still be in force, with Variation No. 2 of the Plan adopted in July 2017. The appeal site is zoned B1, 'Commercial/Town Centre'. This zoning objective seeks to protect, provide for and / or improve town centre facilities and uses. The Development Plan states that it is intended to accommodate the majority of new commercial and retail uses within lands identified for B1 land use zoning objective.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. One third party appeal was lodged by Frank Burke & Associates, on behalf of Kathleen Lambe, Donal & Anne Geraghty, Francis & Rosemary Reilly and Mattie Nally, all of whom are stated to reside in the Brews Hill area. The grounds of appeal can be summarised as follows:

- Application is invalid as the proposal is to use part of a building that has no planning permission. The notices should have made reference to the retention of the said structure.
- The building was erected in the early 1980s by Patrick J Marron Mr Marron was subsequently refused permission by Navan UDC and the Board for permission for revision of plans for a store at this location.
- There is a history of enforcement notices having been issued to various individuals who used the site.
- Meath County Council agreed with this contention, with reference to the request for further information. The Council acted in an ultra vires manner in adjudicating on this application.
- In 1982 the Board refused permission because the location of the site behind a row of houses would seriously injure the amenities and depreciate the value of the houses and the traffic movements would create a traffic hazard and result in traffic congestion. These reasons still apply.
- The building is still backland development in a primarily residential area. The proposed use could be described as semi-industrial and could increase in scale over time.
- Traffic volumes are understated and traffic on Brews Hill has increased substantially since 1982.
- Car parking provision is inadequate.
- No private space is provided for the three apartments.
- Use of the existing vehicular entrance is contrary to the Development Plan as it is not a safe access.
- Applicants claim that traffic generation will be a reduction on that previously existing is incorrect.
- The shop to the front and the subject premises should be considered as standalone premises as their usage may change in future years.
- The Planning Authority's decision not to investigate environmental issues and not to require monitoring is very unsatisfactory.

- The issue of devaluation was not addressed. A meat processing unit would devalue the Nally and Lambe properties.
- There are contradictions about disposal of waste in the application.

## 6.2. **Planning Authority Response**

6.2.1. The Planning Authority's response can be summarised as follows:

- All matters outlined in the appeal were considered in the course of its assessment.
- The Board is asked to uphold the decision of the Planning Authority.

## 6.3. **Observations**

- None.

## 6.4. **Applicants' Response to Appeal**

6.4.1. The applicants' response to the appeal can be summarised as follows:

- The premises has planning permission and no retention of the structure was necessary. Planning references TP 29/72, TP 63/76 and TP2/80 refer. Letter also submitted from Navan Town Council dated 7<sup>th</sup> April 1995 stating that the Council is satisfied with the construction of the development and that it complies with planning regulations. A certificate of compliance was also submitted. The application refused by the Board related to changes to the structure.
- The building has been used for the last 14 years for storage and a grow shop was using the premises with vehicles in and out every day, with no objections.
- The Board's refusal in 1982 is no longer relevant in 2017. The site is now zoned B1 for mixed use commercial and residential and has planning permission for a shop to the front with three apartments overhead and a storage shed to the rear.
- Other developments, such as Aldi, have been built in the area.

- Building is ancillary to the shop and is not backland development. It does not result in overlooking or hazards to adjoining neighbours.
- Traffic figures given by the appellants are incorrect. The same staff who work in the shop will work in the unit preparing the food. The proposed use is a husband and wife run artisan small operation, where the wife runs the Polish shop and the husband manages the meat business for the shop.
- A large butcher shop would not have the movements as suggested by the appellants for the proposed unit.
- There will be no increase in traffic movements due to the duplication of staff and the nature of the use compared to the previous hairdresser and grow shop nature of the use.
- Plans show re-arrangement of car parking spaces to the rear to improve on existing arrangement, to allow for turning. There will be no HGVs entering the yard as they would have to go under an archway to enter.
- Adequate car parking is proposed for the development and for the three apartments overhead.
- Development will be subject to monitoring by the Health Board and Local Authority. It is not a factory or major processing unit, and is solely reliant on being sold into the shop to the front of the premises.
- Development will not devalue property, as the Aldi premises on the street did not devalue residences and instead values have increased.
- All waste will be collected by College Proteins in Nobber. The volume of waste can be carried out in a basket once or twice a week.
- The scale of meat preparation could probably be done in a domestic kitchen, however it would not be permitted by the Health Board.

## 7.0 Assessment

7.1. I consider that the key issues in determining the appeal are as follows:

- Principle of proposed development.



- Planning history.
- Access and traffic.
- Residential amenity.
- Appropriate Assessment.

## **7.2. Principle of Proposed Development**

- 7.2.1. The appeal site is located within an area which is zoned B1, 'Commercial/Town Centre', and the Development Plan states that it is intended to accommodate the majority of new commercial and retail uses within lands with this zoning objective. Having reviewed the documentation associated with both the application and the appeal, I consider that the proposed meat processing and butchers storage area is ancillary to the retail unit at the front of the site and does not comprise a standalone industrial use. I base this conclusion on the limited scale of the operation in terms of product intake (4-6 pig carcasses and 100-120kg of beef), operational hours (20-25 hours per week over 3 days) and staff employed (2-3) and on the fact that it will only supply products to the on-site Polish shop which sells a variety of food products in addition to meat products.
- 7.2.2. Nevertheless, in the interests of clarity and in order to maintain the ancillary nature of the meat processing and storage use, I recommend that if the Board is minded to grant permission that suitable conditions be imposed to control the nature of the use and the operational hours of the processing unit.

## **7.3. Planning History**

- 7.3.1. The appellants contend that the structure which the applicants are seeking to change the use of does not have the benefit of planning permission, and that retention permission for the structure should therefore have been sought. In response to the appeal the applicants have submitted a significant volume of documentation relating to the planning history of the structure.
- 7.3.2. The information submitted by the applicants included a letter from Navan Urban District Council dated 7<sup>th</sup> April 1995. The letter makes reference to planning permissions TP 29/72, TP 63/76 and TP 2/80 and states that the "Council is satisfied

with the construction of this development and is equally happy it complies with planning regulations in force". The applicants also submitted a certificate of compliance in respect of planning Reg. Refs. TP 2/80 and TP 63/76.

- 7.3.3. Having reviewed the documents submitted, I am satisfied that the applicants have adequately demonstrated that there is planning permission for the structure in question, albeit that it appears from other documentation on file that there is a history of planning enforcement issues regarding aspects of the structure and its use. Since the Board's remit does not extend to matters of planning enforcement, I consider that any such matters are within the local Planning Authority's remit. For the purposes of assessing this planning appeal, I am satisfied that sufficient evidence has been provided to allow the Board to decide the case on its own merits.

#### **7.4. Access and Traffic**

- 7.4.1. The appellants contend that the proposed development will provide inadequate car parking and will result in significant traffic generation and traffic hazard.
- 7.4.2. The site layout plan submitted in response to the request for additional information indicates 11 parking spaces within the appeal site. Having regard to the nature of the use and the low number of staff employed, I consider that this level of car parking is acceptable within a town centre location.
- 7.4.3. Furthermore, with particular regard to customer car parking, I note that there is a large Aldi supermarket with associated car park to the west of the appeal site, a large public car park to the east and on-street parking on the northern side of Brews Hill opposite the appeal site. Having regard to the nature and scale of the use and the established commercial uses on the site, I do not consider that a significant volume of traffic would be generated by the proposed development.
- 7.4.4. The archway access to the rear of the site serves to limit the size of vehicles that can access the site, and HGVs will not be able to access the yard area. Having regard to the provision of on-site parking, the on-street parking opposite the site, and the large public car park to the east, I am satisfied that the limited scale of the operation can be satisfactorily serviced by vans and accessed by customers and staff without resulting in a significant volume of traffic generation or a traffic hazard.

## 7.5. Residential Amenity

- 7.5.1. The structure which the applicants are seeking to change the use of is in existence for over 30 years and no significant changes to the external appearance of the structure are proposed. I therefore consider that there will be no additional impacts on adjoining properties in terms of overshadowing, overlooking or loss of privacy above those which already exist.
- 7.5.2. The two areas where I consider that there could potentially be an adverse impact on residential amenity are odour and noise emissions. Part of the processing to be undertaken in the building includes the boiling, roasting and smoking of meat. The floor plan drawing indicates two fans on the eastern elevation of the building, c. 5m from the boundary with the adjacent property, although these are not shown on the elevation drawing. No information has been provided regarding the nature of this ventilation equipment. While I consider the development to be broadly acceptable, I note that inadequate or inappropriate ventilation arrangements could give rise to odour emissions or significant noise impacts. I therefore consider that a condition requiring details of the ventilation arrangements to be agreed with the planning authority would be appropriate in this instance.
- 7.5.3. Finally, with regard to vermin such as rats and flies, I consider that there is no fundamental reason why a well-run small-scale facility of the type proposed would result in an increase in vermin population. It is proposed to store both raw meat products and waste materials in refrigerated storage within the building, and I note that such premises are subject to controls by the Food Safety Authority of Ireland and the HSE Environmental Health Service. There is an existing supermarket close to the site and a number of other commercial premises in the immediate vicinity, including a butcher shop to the east of the site. Subject to the imposition of suitable conditions to control noise emissions, to prevent outdoor storage of products and meat waste, and to limit the hours of operation of the processing unit, I do not consider that the proposed development would be likely to have an unacceptable impact on residential amenity.

## 7.6. **Appropriate Assessment**

7.7. Having regard to the nature and scale of the proposed development, which is located in a zoned and serviced town centre location, the nature of the receiving environment and the proximity to the nearest European site, I consider that no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 **Recommendation**

8.1. I recommend that planning permission should be GRANTED for the reasons and considerations set out below.

## 9.0 **Reasons and Considerations**

9.1.1. Having regard to the zoning objectives for the area and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity, would be acceptable in terms of traffic impact and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 5<sup>th</sup> day of May 2017, the 16<sup>th</sup> day of May 2017 and the 19<sup>th</sup> day of May 2017, 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. The proposed meat processing area and butchers store shall only be used for the preparation and storage of raw and cooked meat products for sale in the adjacent retail unit at No. 14 Brew's Hill and shall not be used to supply other retail units, or to directly sell products to members of the public.

**Reason:** In the interests of clarity.

3. The proposed meat processing unit shall only operate between the hours of 08:30 and 18:00 Mondays to Fridays inclusive, between 09:00 and 13:00 hours on Saturdays and not at all on Sundays and public holidays.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

4. All goods, including raw materials, manufactured goods, packaging, crates etc. and all meat waste shall be stored only within the enclosed building.

**Reason:** In the interest of visual and residential amenity.

5. Prior to the commencement of development, proposals shall be submitted for the written agreement of the Planning Authority for the control of odour and fumes from the site. The proposals shall include elevations and details of the proposed extraction fans on the building.

**Reason:** In the interests of public health and to protect the residential amenities of property in the vicinity of the site.

6. The noise level shall not exceed 55 dB(A) rated sound level, as measured at the nearest noise sensitive location. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

7. 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.

8. Site development and building works shall be carried out only between the hours of 08:00 to 19:00 Mondays to Fridays inclusive, between 08:00 to 14:00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

9. 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 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.

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Niall Haverty  
Planning Inspector

11<sup>th</sup> October 2017