



An
Bord
Pleanála

Inspector's Report PL09.249033.

Development	Two storey commercial development consisting of a petrol station and drive through take away and associated works.
Location	Piercetown, Station Road, Newbridge, County Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	16/1114.
Applicants	Thomas Patrick Lesson.
Type of Application	Permission.
Planning Authority Decision	Refusal of permission.
Type of Appeal	First Party
Appellant	Thomas Patrick Lesson.
Observers	None.
Date of Site Inspection	23 rd October 2017.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The appeal site is located to the north of the town centre area on the R416 which leads out from the main street to the railway station. The appeal site itself is north of the station and is part of a larger site which has been partially developed. The site has frontage onto the R416 which defines the site's eastern boundary. To the north of the site is the site of a detached dwelling and to the north of the dwelling is a school. On the opposite side of the R416 are the offices of the Department of Defence.
- 1.2. The general area could be described as in a transition from a greenfield area to a development area with a mix of residential development and vacant areas. The roadside boundary is currently defined with a timber hoarding. The site which is rectangular in configuration has a stated area of 0.41 hectares.

2.0 Proposed Development

- 2.1. The proposed development as submitted initially to the planning authority on the 26th of October and the 4th of November 2016 was for an overall development comprising of a modern two storied flat roof building which included;
 - A commercial building incorporating a drive thro restaurant with a takeaway facility, a petrol filling station with a forecourt which also had a shop and refuse storage located to the south of the main unit.
 - A new vehicular entrance serving the overall development.
 - A first floor area incorporating two office units which could incorporate medical related facilities.

The overall floor area is stated as having a floor area of 1,097.44m². The building is of a modern design and finishes with a high degree of glazing incorporated in the elevations. On-site parking is proposed along the perimeter of three of the site's boundaries.

It is proposed to connect to public services with provision for attenuation in relation to surface water drainage.

A revised layout was submitted on the 16th of June 2017 which largely recasts the internal layout of the building and alters the external elevations. Reference is made to what is proposed on the adjoining site to the south where it is proposed to construct a four storey apartment block with 10 metre building line. The revised proposal provided for;

- A retail shop referred to as a neighbourhood shop unit which has a stated floor area of 367m² replacing the original retail shop of 100m² net
- A drive through restaurant with a takeaway facility with a stated area of 125m² a reduction in area from 201m².
- A petrol filling station with a forecourt which has a shop, and refuse storage with a stated floor area of 60m² located to the south of the two other units and which is single storied in height and design. The car wash is omitted.
- A new vehicular entrance serving the overall development.
- A first floor area incorporating two office units which could incorporate medical related facilities.

3.0 Planning Authority Decision.

3.1. Decision

The decision of the planning authority was to refuse planning permission. One reason was stated.

In summary the reason refers to the zoning of the site as a neighbourhood centre; its location as a key connection between the expanding northern residential quarter of Newbridge and the railway station; the prominent nature of the site; the inappropriate design and nature of the development which fails to integrate with adjoining development or enhance the public realm and a failure to provide a satisfactory design response in accordance with section 17.13.2 of the Kildare County Development Plan 2017-2023. and there is an aim of providing for a 4 arm junction in the LAP.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 19th of December 2016 refers to;

- The planning history.
- Submissions received.
- Development plan provisions
- Policy provisions.
- An assessment of the issues in particular the nature of the uses proposed in particular the nature of restaurant use proposed, the design in the context of the area and aspects of the siting and layout in the proposed development. Further information was recommended.

The planning report dated the 13th of July 2017 in relation to the further information noted the revisions but did not consider that the revisions adequately address the initial concerns. Concern is expressed in relation to a setback of 22.5 metres and the absence of a continuous street fronting buildings. It is indicated that the building could be improved by a more innovative design. Reference is made to a use of a screening wall to create a stronger streetscape and the need for the development of a strong statement in relation to the neighbourhood centre. The issues relating to the scale and design of the take/away is addressed.

Refusal was recommended.

3.2.2. Other Technical Reports

Water services report dated the 16th of December 2016 raised no objections and recommend conditions.

The environment section report dated the 15th of December 2016 indicated no objection.

The roads and transportation report dated the 19th of December 2016 requested further information.

The roads and transportation report dated the 6th of July 2017 in relation to the further information indicated no objections and recommends conditions.

3.3. Statutory Bodies.

Irish Water in submissions dated the 1st July 2017 indicated no objections.

3.4. Other submissions.

A submission was received from adjoining residents raising concerns in relation to the development, its design; impact on their property and amenities arising from the development.

4.0 **Planning History**

4.1. **Particular to the appeal site.**

P.A. Ref. No 11/285.

Permission granted for a mixed two storied commercial development incorporating a petrol filling station, a drive thru restaurant, 2 restaurants and associated works

P.A. Ref. No 05/0222.

Permission granted for an overall development comprising 7 apartment blocks, 5 retail units, medical consultation offices, office units, a crèche and community facilities.

5.0 **Policy Context**

5.1. **Retail Planning Guidelines 2012.**

5.1.1. The Retail Planning Guidelines published by the DoECLG in April 2012 are the current guidance document in setting a policy framework for retail development and for the assessment of individual proposals for development. In essence the guidelines have an overriding policy that retail development should be plan led and part of an overall wider strategic approach in cohesion with other development.

5.1.2. To this end the 2012 Guidelines have five key policy objectives:

- Ensuring that retail development is plan-led;
- Promoting city/town centre vitality through a sequential approach to development;
- Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;

- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel strategy; and
- Delivering quality urban design outcomes.

5.1.3. Section 2 relates to Retail Policy Context and the need for symmetry between retail planning policy and the core strategies of development plans identifying locations designated for significant growth within the environs of the city or town in question and also that the core strategy will also show an appropriate level of retailing and amenities to serve the catchment population within those environs.

5.1.4. Section 5 of the guidelines relates to retailing and design quality and that planning authorities should promote high standards of design and finish through both the forward planning and development management processes.

5.2. **Retail Design Manual A Companion Document to the Retail Planning**

Guidelines published by the Department of Arts, Heritage and An Gaeltacht in April 2012.

5.2.1. The manual in association with the RPG are intended to provide a planning framework for future development of the retail sector in a way which meets the needs of modern shopping formats while contributing to protecting, supporting and promoting the attractiveness and competitiveness of city and town centres as places to live, work, shop and visit. The manual refers to issues including design, site and location, access and connectivity and the public realm.

5.3. **Design Manual for Urban Roads and Streets (DMURS)** was prepared for the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government and published in March 2013.

5.3.1. The Manual offers a holistic approach to the design of urban streets in cities, towns, suburbs and villages; to the application of principles and standards and a new perspective in assessing development in the urban context with emphasis on accessibility, permeability and design.

5.3.2. The objective of the guidelines is produce high quality sustainable developments. The guidance relates to all levels of settlements and are accompanied by a best practice Design Manual.

5.4. Development Plan

5.4.1. Kildare County Development Plan 2017-2023.

The current county development plan outlines broad policy in relation development in the county including the major towns. Newbridge is identified as a key centre of population and for the provision of new residential development. It is noted that when the initial submission of the planning application was submitted the KCDP 2011-2017 was operative.

Chapter 17 of the current plan refers to development management.

Section 17.13.2 refers to local centres where it is indicated that *“in assessing proposals the Planning Authority will have regard to the need to maintain and enhance the vitality, viability and the character of the area”*.

Section 17.13.6 refers to motor service area/ petrol filling stations and there are a number of provisions in relation to siting and design including:

- Petrol filling stations must be located on the outskirts of the town or village but inside the 50km or 60km speed limits. The preferred location is on the near side of the roadway on the way out of town.
- A high standard of overall design, architectural layout and material content to ensure an attractive development that integrates with and complements or enhances its surroundings. The forecourt canopy should be integrated into the overall design and sited so that it does not dominate the surrounding buildings.
- Advertising material should be kept to a minimum and no lighting shall be installed so as to cause glare or interference to any user of an adjacent public road.
- The modification of standard corporate designs may be required by the Council in order to reduce the visual impact of the development in sensitive environments. In such instances, standard petrol station canopies can be replaced with more sympathetic canopies designed to the satisfaction of the Council, such as light steel and glass or slated roofs with no attached advertising

Section 17.13.7 refers to fast food outlets / take-aways outlining provisions in relation to location and relationship to other uses. Design is also referred to and that the design shall be required to respect the character of the street and the buildings.

Section 17.13.8 refers to hours of operation and standards and requirements in this regard.

Section 17.14 refers to shopfront advertising and signage and outlines a wide range of standards in relation to the nature of signage.

5.4.2. **Newbridge Local Area Plan 2013-2019**

The site is located within an area zoned D - Neighbourhood Centre with the objective *“to provide for new/existing neighbourhood centres and associated facilities”*.

Table 18 is a land use zoning matrix. A convenience retail shop and medical/offices uses are permitted in principle. A petrol station and drive through restaurant are uses open for consideration.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The appellant in the grounds of appeal dated the 9th of August 2017 refers to;

- The issue in relation to appeal is the reason for refusal which relates to the design of the proposed development and in particular the location of the filling station forecourt.
- The layout of the development in particular was modified to address concerns of the planning authority in relation to the location and siting of the forecourt.
- The appellant considers that the solution arrived at is one which is suitable for this particular site with its opportunities, constraints and characteristics.
- Certain norms and approaches exist in relation to the design of many types of development.
- There are important considerations in designing a filling station in relation to access/egress, space and circulation and visibility.

- There is no established building line in the vicinity and the applicant is happy to accept a building line nearer the road and remove parking adjoining the roadside boundary.
- The applicant is happy to agree finishes with the planning authority.
- There were no objections from other departments in relation to the development.
- The proposal represents a reasonable design response in the context of the particular site.

7.0 Assessment

- 7.1. The main issues which arise in relation to the appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.
- 7.2. Principle of development.
- 7.2.1. The site is within an area zoned D - Neighbourhood Centre with the objective “to provide for new/existing neighbourhood centres and associated facilities”. Table 18 is a land use zoning matrix and within its provisions a convenience retail shop and medical/offices uses are permitted in principle. A petrol station and drive thro restaurant are uses open for consideration.
- 7.2.2. I would refer to the planning history of the site which has considered similar type development on the appeal site and vicinity. The site forms part of a larger site which is a partially completed development comprising 7 apartment blocks, 5 retail units, medical consultation offices, office units, a crèche and community facilities. Permission was under P.A. Ref. No 11/285 on the appeal site for a mixed two storied commercial development incorporating a petrol filling station, a drive through restaurant, 2 restaurants and associated works.
- 7.2.3. The site’s designation as a neighbourhood/local centre is part of an overall strategy for the future growth of a new residential area to the north of Newbridge and is I consider in compliance with the overall strategy for the county and the provisions of the retail guidelines.

- 7.2.4. In principle I would therefore have no objection to the consideration of the uses proposed for the site.
- 7.3. Siting and design.
- 7.3.1. The primary issue in relation this appeal is in relation to the design of the development and the reason for refusal as stated by the planning authority reflects this.
- 7.3.2. The retail guidelines and the provisions of LAP for Newbridge refer to the importance of design in relation to new development and in particular there are provisions stressing the importance of design which are referred to in section 5 of this report.
- 7.3.3. The planning report dated the 19th of December 2016 in assessing the proposed refers to the design in the context of the area and aspects of the siting and layout in the proposed development, in particular the filling station forecourt, in wishing to promote a strong streetscape and the request of further information outlined these concerns. In the planning report dated the 13th of July 2017 in relation to the further information as submitted noted the revisions made were but considered the revisions did not adequately address initial concerns raised. Issues raised included the setback of 22.5 metres and the absence of continuous street fronting buildings. It was also indicated that the building could be improved by a more innovative design and in this regard reference is made to a possible use of a scree wall to create a stronger streetscape and the need for the development of a strong statement in relation to the neighbourhood centre.
- 7.3.4. In the grounds of appeal design was acknowledged as the primary issue. The appellant considers that the solution arrived at is one which is best suited for this particular site with its opportunities, constraints and characteristics. The applicant/appellant also considers that certain norms and approaches exist in relation to the design of many types of development and as a consequence these are important considerations in designing a filling station in relation to access/egress, space and circulation and visibility which must be met.
- 7.3.5. The appellant also indicates that there is no established building line in the vicinity and the applicant would accept a building line nearer the road and remove parking adjoining the roadside boundary and to agree finishes with the planning authority.

Essentially the appellant contends that the proposal represents a reasonable and appropriate design response in the context of the particular site.

- 7.4. In relation to this appeal the site is located at the northern end of a larger development where a defined building line of 10 metres setback from the road applies. To the north of the site is a dwelling set back to a building line equating to the rear boundary of the appeal site approximately 60 metres from the road and to the north is a school set 50 metres from the road. Both of these developments are singled storied in design and height.
 - 7.4.1. On the opposite side of Station Road, the Department of Defence building presents a strong streetscape edge in relation to the length of frontage and overall height.
 - 7.4.2. I would accept that the issue of design and layout are of importance generally and also the desire for quality design in new developments in particular on the fringe and on the approach to urban areas.
 - 7.4.3. In relation to the appeal site although the site forms part of an overall development it could also be considered as a transition between existing/proposed development to the south and existing development to the north. In this context a building set back in excess of 10 metres could therefore be considered. It is also a transitional area between four storey development and existing single storey development.
 - 7.4.4. I would therefore consider that the maintenance of a building line and the requirement for a strong vertical presence is not necessarily required on the appeal site and would not be as visually important as for an infill site with an existing established building line. I would also note that the indicative layout indicating the proposed development to the south on the town ward side of the site has a varied front building line with projections forward of the front building line of the proposed development but also other sections which are approximate to and behind the proposed building line of the proposed development.
 - 7.4.5. I would accept that the nature of use proposed to a degree influences the approach to design. In this regard the proposal provides for a filling station which would have requirements in relation to circulation of vehicles and the operation of accommodating vehicles for purchasing fuel. I would however also note that section 17.13.6 of the KCDP specifically refers to filling stations requiring a high standard of overall design, architectural layout and material content to ensure an attractive

development that integrates with and complements or enhances its surroundings. The development plan also makes reference to the forecourt canopy and the importance that it should be integrated into the overall design and that standard petrol station canopies can be replaced with more sympathetic canopies with no attached advertising.

- 7.5. For the purposes of this assessment I will consider the revised layout was submitted on the 16th of June 2017. This layout largely recasts the internal layout of the development, amendments to overall layout and also included alterations of the external elevations.

The substantive amendments largely relate to the provision of a retail shop referred to as a neighbourhood shop unit which has a stated floor area of 367m² replacing the original retail shop of 100m² net; a drive through restaurant with a takeaway facility with a stated area of 125m² a reduction in area from 201m²; a petrol filling station with a forecourt which has a shop with a stated floor area of 60m² and which is single storied in height and design and a first floor area incorporating two office units which could incorporate medical related facilities.

The car wash is omitted and there is a softening of the overall layout with additional provision of landscaping in particular along the roadside elevation.

- 7.5.1. Notwithstanding the internal alterations the overall design and layout is largely similar to the original design.
- 7.5.2. In relation to the overall layout the reason for refusal refers to lack of integration and the that structure is surrounded by circulation car parking. My initial comments in this regard are that can be considered as a stand-alone development; it is a transitional site between existing development and proposed development and in that context the overall height and mass can be flexible in such a transitional setting and the height and mass is reasonable. I also consider that given the nature of the uses proposed on the site provision of a level of parking on the perimeter of the site is reasonable. The issue of internal circulation is important in the context of the uses proposed and the need to provide a coherent provision of parking and circulation internally within the site and also for the avoidance of parking on Station Road.
- 7.5.3. I would therefore have no objection to the overall layout as proposed.

- 7.5.4. In relation to the building proposed on the site it is of a modern design and construction in a new neighbourhood and reflects such a design approach in the vicinity though I would accept functionality is the primary force in the design. I would have no objection to the proposed building subject to conditions requiring agreement in relation external finishes and the provision and nature of advertising signage and material on the building and the site generally.
- 7.5.5. The primary issue relates to the forecourt of the filling station and in particular the presence of a canopy which is located at the town side of the building elevation. In general, such canopies are functional structures and an integral part of modern filling stations. The presence of advertising material, corporate logos, colour and finishes on the canopies can impact on the streetscape and visually impact on the area.
- 7.5.6. In considering this aspect of the development currently in the absence of development on the town ward side of the site the appeal site is prominent but the prominence of the site would diminish with the completion of development on adjoining lands in the direction of the town centre. I also consider that the setting back of the building line of the development reduces the level of impact of the proposed development. The proposed canopy will also have a background of the proposed building on the site when viewed in a northerly direction. The major matter in relation to visual impact is the control of advertising material, corporate logos, colour and finishes on the actual canopy and this regard advertising and the use of logos can be limited and the canopy can be retained for its primary function and not as an advertising structure.
- 7.5.7. Such control of advertising signs and material is also important in the overall context of the site and it would be important that details relating to advertising should be limited by a way of condition and be carried out in a coherent and co-ordinated manner on the building and the site.
- 7.5.8. I note the reference by the planning authority to a more innovative approach and the reference to the possible application of a screening wall to the side of the forecourt. Such a design approach can be of benefit visually but it is a matter to be considered on a site by site basis. Specifically, in relation to the proposed site I do not consider that such a requirement is necessarily appropriate. Such an approach would also

require a major recasting of the site layout and the site by reason of its limited overall site area may not be appropriate to such a concept.

- 7.5.9. I would therefore have no objection to the proposal as submitted. I also consider that the revised parking and landscaping acceptable.

8.0 Conclusion and Recommendation

I therefore recommend that permission be granted.

9.0 Reasons and Considerations

Having regard to the provisions of the current Newbridge Local Area Plan 2013-2019; the zoning of the site as Neighbourhood Centre with the objective “to provide for new/existing neighbourhood centres and associated facilities”; the nature and pattern of uses in the vicinity; the nature, scale and design of the proposed development and the availability in the area of infrastructure, it is considered that, subject to compliance with the conditions set out below, the proposed development would, therefore, 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 16th of June 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 interests of clarity

- 2 Details of the materials, colours and textures of all the external finishes to

the proposed buildings including the forecourt canopy shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 3 Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

- 4 The proposed car parking layout shall be modified so that at least 2 spaces are provided for persons with impaired mobility. These spaces shall be located as close as possible to the building entrance. The layout, dimensions and markings for these spaces shall be in accordance with the guidance set out in the document "Building for Everyone - a Universal Design Approach" (National Disability Authority). Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure a satisfactory parking provision for the proposed development that is accessible to all users.

- 5 Public lighting shall be provided in accordance with the requirements of the planning authority details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

- 6 Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority.

Reason: In the interest of pedestrian safety

- 7 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.
- Reason:** In the interests of visual and residential amenity.
- 8 A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following: -
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) proposed locations of landscape planting in the development, including details of proposed species and settings;
 - (c) details of proposed boundary treatments at the perimeter of the site, and internally within the site including heights, materials and finishes.
- The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme and shall include a timescale for implementation.
- Reason:** In the interest of visual amenity.
- 9 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
- 10 Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.
- Reason:** In the interest of public health.
- 11 A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of storage, separation and collection of the waste shall be submitted to and agreed in writing with the planning authority prior to the commencement of

development.

Reason: To provide for the appropriateness management of waste and in particular recyclable materials in the interests of protecting the environment.

- 12 Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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.

- 13 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

- 14 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.

Derek Daly
Planning Inspector

14th December 2017