



An
Bord
Pleanála

Inspector's Report PL26.249102

Development	Hand washing of cars with power washers, dry car valeting, together with all associated site works and ancillary services.
Location	Crosstown, (ED Ardcavan), Castlebridge, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	2017/0589
Applicant(s)	John Murphy Valeting Ltd
Type of Application	Permission
Planning Authority Decision	Grant, subject to 6 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Maurice Cronin
Observer(s)	None
Date of Site Inspection	2 nd November 2017
Inspector	Hugh D. Morrison

1.0 Site Location and Description

- 1.1. The site is located on the northern side of Wexford Harbour some 1.2 km from Wexford Town. This site lies on the western side of the R741, along a stretch of this regional road which is characterised by intermittent one-off dwelling houses and retail/commercial uses such as car dealerships. It adjoins a Kingdom Hall to the south and two residential properties to the north, one of which is the appellant's.
- 1.2. The site itself is of rectangular shape and it extends over an area of 0.253 hectares. A single storey building is sited centrally within this site and it is accompanied by a forecourt to the front and an enclosed yard to the rear. This building is in use as a laundrette and a solid fuels sales place. The applicant uses the rear yard for his car valeting business. A further single storey building (132 sqm) is sited in the northern portion of this yard. The majority of the yard has a sealed surface and a grill has been installed over a sunken tank in the eastern portion adjacent to the rear elevation of the centrally sited building. A pair of gates afford entry to the yard from the aforementioned forecourt, which laps around to the south of the centrally sited building. The yard is enclosed by the aforementioned elevation, security fencing and, in the vicinity of the applicant's building, a blockwork wall.

2.0 Proposed Development

- 2.1. The proposal is for the introduction of the use of hand washing of cars by means of hand held power washers. The portion of the site occupied by the applicant is in use as a car valeting place. Works to facilitate the proposed use are insitu, i.e. the grill, sunken tank and associated drainage.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted subject to 6 conditions, including the following ones:

1. *The use of the proposed development shall be confined to the following hours:
Monday to Saturday 0800 to 1800 hours.*

Reason: To protect the amenities of adjoining properties.

2. *The noise level from this development shall not exceed 55dB(A), leq(A) when measured at the boundaries of the site, between the hours 0800 and 2000, Monday to Friday. The noise level shall not exceed 45dB(A), leq(A) at any other time. Neither shall noise contain any impulsive noise or audible tone components.*

Reason: To prevent noise pollution and in the interests of the amenities of adjoining property.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See conditions cited above.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

See grounds of appeal.

4.0 Planning History

- W2010/055: Erection of a car valeting facility and all associated site works and ancillary services: Permitted subject to 9 conditions, including the following ones:

2. *This permission is for the use of the premises as a dry valeting service only. No change in the use of any unit, either in part or whole, shall be allowed without a prior grant of planning permission for the Planning Authority.*

Reason: To ensure the proposed development strictly accords with the permission and that effective control is maintained.

7. *The noise level from within the boundaries of the development shall not exceed 55dB(A) rated sound level at any point along the boundary of the development or the equivalent at any point outside the boundary between the hours of 0800 to 1800, Monday to Friday inclusive but excluding Bank Holidays. At all other times the noise level shall not exceed 45dB(A) rated sound level. Neither shall noise contain any impulsive noise or audible tone components.*

Reason: To prevent noise pollution.

- 023/2017: Enforcement enquiry re unauthorised car washing business operating 7 days a week starting at 0500.

5.0 Policy Context

5.1. Development Plan

Section 18.29.9 of the Wexford County Development Plan 2013 – 2019 (CDP) addresses petrol filling stations/service stations/truck parking.

Wexford Town and Environs Plan 2009 – 2015, which has been extended to 2019, shows the site as zoned commercial and mixed use. Service garages are “open for consideration” under this zone.

5.2. Natural Heritage Designations

The following designated sites lies to the south of the application site:

- Slaney River valley SAC (site code 000781)
- Wexford Harbour and Slobs SPA (site code 004076)
- Wexford Slobs and Harbour NHA (site code 000712)

6.0 The Appeal

6.1. Grounds of Appeal

- Conditions attached to the permission granted to W2010/055 are reviewed in the light of experience. Thus, contrary to these conditions, power washing is

undertaken from as early as 0500, continuing to as late as 2100, and on Saturdays, too.

- The current application was lodged on 12th May 2017 and yet power washing commenced at the beginning of this year. Accordingly, the application should be for retention permission.

A photograph of the applicant's vehicle shows that it advertises car valeting on a 7-day basis between 0600 and 2100, days and times that contravene the previously granted permission.

- Attention is drawn to the current enforcement case concerning existing unauthorised power washing, which employs a noisy diesel washer and air compressors. Therein lies further evidence in support of the need for the current application to be for retention permission.
- Attention is drawn to the applicant's response to the Planning Authority's request for further information. No noise study was submitted and, while the appellant notes the measures taken to mitigate noise from the air compressors, he contends that they are not the main source of noise nuisance. Furthermore, the suggested installation of timber noise barriers was not pursued by the applicant.

6.2. Applicant Response

The applicant begins by making the following preliminary points:

- The enforcement enquiry that is referred to is separate from the current application, both procedurally and substantively, and it is for the Planning Authority, rather than the Board, to attend to.
- Notwithstanding the fact that there is historic precedent for such washing on the site, when the applicant realised that power washing was excluded from the permission granted to W2010/055, he discontinued car washing on the site. He also observes that the condition in question was attached for clarification only and that it does not rule out car washing, should permission be obtained for the same.

- The air compressor was not and would not be used in conjunction with any power washing. Instead it is used in conjunction with car valeting. Nevertheless, the applicant has placed this compressor in a noise insulated stainless steel unit in a bid to reduce noise omissions.
- The applicant has invited the appellant to look round his site. However, this invitation has not been taken up. While the appellant is a neighbour, the nearest neighbour has raised no objection to the proposal.
- The proposal would entail the use of a single diesel powered “Karcher” power wash. Run-off from car washing would be collected by the existing on-site drainage system and discharged, via a petrol interceptor, to the public foul water sewer. Diesel for this power wash would be stored in a drum, which could be the subject of bunding, should the Board deem this to be necessary. Car washing would be conducted within the times specified in the draft permission.

The applicant responds to the grounds of appeal as follows:

- As set out above, car washing is not occurring on the site and car valeting is being undertaken during normal business hours in accordance with the permission granted to W2010/055.
- With respect to noise, as outlined above the applicant has undertaken measures to address this issue insofar as it emanates from the air compressor. Any outstanding concerns should be addressed separately from the current application.

The proposal would not affect the amenity of the appellant's property, as it would be neither visible from nor would it encroach upon the same.

The noise generated by the power wash would not be significant, e.g. it would be less than that generated by the compressor. Furthermore, the applicant undertook a rudimentary noise check of the site within its context, which includes the R741. This check confirmed that significant noise is generated by passing traffic and so the ambient noise level is moderately high. Thus, for example, readings taken within the site and adjacent to the appellant's property were 44dB with the compressor on. They then rose to 48/49dB when

a car passed. These readings do not allow for the noise mitigation that is/would be afforded by the appellant's boundary treatment.

- The proposal would accord with the established use of the site and its zoning in the Wexford Town and Environs Plan.

6.3. **Planning Authority Response**

The Planning Authority reiterates its view that background noise levels, which are heavily influenced by traffic on the R741, mean that noise from the power wash would be acceptable.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use and planning history,
- (ii) Amenity,
- (iii) Traffic, access, and parking,
- (iv) Water, and
- (v) AA.

(i) Land use and planning history

7.2. The site is zoned commercial and mixed use in the Wexford Town and Environs Plan 2015 – 2015. (The life of this Plan has been extended to 2019). The use of land for car washing is not addressed in connection with the zonings on this Plan. Insofar as

this use can be a constituent use of service garages, it is deemed to be “open for consideration”. Thus, while there is no in principle objection to such uses they need to be compatible with other considerations, e.g. the amenities of an area.

- 7.3. The car valeting use undertaken by the applicant was permitted under application W2010/055. The second condition attached to this permission stated that the permitted use was for a dry valeting service only and that any change of use would require a further grant of planning permission. Thus, the use of the site for car washing, even if conducted in conjunction with the car valeting use, represents the introduction of an additional use, which constitutes a change of use that in view of this condition is material, thus necessitating the current application.
- 7.4. The appellant raises a number of concerns with respect to the applicant's business. The only ones that can be considered under the current application/appeal are the ones that relate to the proposal that is before the Board. He reports that the car washing use commenced at the beginning of this year and so the current application should be for a retention permission. He also expresses concern over the noise generated by the power washer and this concern is presented within the context of other concerns pertaining to noise generated by the car valeting use.
- 7.5. The applicant has responded by stating that there is historic precedent for car washing use on the site and that once he was advised of condition 2 he desisted from undertaking such use. He draws attention to the reason for this condition which simply affords the Planning Authority the opportunity to control any additional use rather than passing judgement upon the same.
- 7.6. The Planning Authority validated the application as one for permission rather than for retention permission. Insofar as the physical works to the site that facilitate this use date from the previous car washing use that predates the 2010 permission and insofar as the applicant has suspended the use in question, such validation makes sense.
- 7.7. I, therefore, conclude that there is no in principle land use objection to the proposed car washing use.

(ii) Amenity

- 7.8. The appellant expresses concern that when the car wash use was being undertaken the days and hours of operation conditioned by permitted application W2010/055 were not adhered to and the noise generated by the diesel washer added to the noise emanating from the car valeting yard. He identifies another noise source as an air compressor sited within the applicant's building and he acknowledges that the applicant has undertaken measures to mitigate noise breakout from this source, i.e. it has been placed within a noise insulated stainless steel unit. Nevertheless, he considers that a noise study is still warranted.
- 7.9. The applicant has undertaken a rudimentary noise survey, which indicates that the noise environment of the site within its context is influenced by several factors, i.e. passing traffic on the R741 and machinery used in conjunction with his car valeting use. This survey suggests that the noise level of the compressor is now exceeded by the noise level of passing traffic. It does not allow for the mitigation afforded by the 2.5m high blockwork wall that separates the site from the appellant's residential property. If this is allowed for, then noise levels experienced at this property would be less than those recorded on site and so the standard noise condition attached to the Planning Authority's draft permission would be capable of being complied with.
- 7.10. Given the aforementioned noise environment and given, too, the character of the noise that would be generated by the diesel washer, which would be of a consistent quality and at a low level of volume, I am satisfied that the use of this washer would not add appreciably to this noise environment and so it would be compatible with the residential amenities of the area.
- 7.11. The applicant has expressed a willingness to mitigate the aforementioned noise by placing the washer within acoustic housing. He has also expressed a willingness to place the diesel used in its operation within a bunded area. These matters could be conditioned.
- 7.12. The existing permission for the site does not refer directly to days and hours of operation, only indirectly via the noise condition attached. (The Planning Authority's draft permission now introduces a condition that confines the proposed use to Monday to Saturday between the hours of 08.00 and 18.00). A comparison of the said noise condition with the equivalent one attached by the Planning Authority to the

draft permission for the current proposal indicates that several changes have been introduced, i.e. the 55 dB(A) threshold is restated as 55 dB(A), leq(A), the weekday times for this threshold are extended from 18.00 to 20.00 hours and no reference is made to bank holidays. In the interests of consistency and in a bid to avoid confusion, I consider that the earlier condition should be replicated in any permission now granted and that the draft days and hours condition be omitted.

7.13. I conclude that the proposal would be compatible with the residential amenities of the area.

(iii) Traffic, access, and parking

7.14. The proposed car wash use would be undertaken in conjunction with the applicant's existing car valeting use. Accordingly, it would not generate traffic in its own right and so the existing traffic profile of the site would not change significantly. Existing access and parking arrangements within the site would continue to be used, as at present.

(iv) Water

7.15. The site is served by the public water mains and the public foul and surface water sewerage system. The insitu car wash facility is connected to this system via a silt trap and a petrol interceptor.

7.16. The site is not shown as being at risk of flooding in either the CDP's Strategic Flood Risk Assessment or on the OPW's flood maps website.

(v) AA

7.17. The site is not in a Natura 2000 site. To the south of this site lies both the Slaney River valley SAC and the Wexford Harbour and Slobs SPA.

7.18. As outlined above, under the foregoing heading, the proposal is for a car wash use within an existing car valeting yard. Water run-off from this use would pass through a silt trap and a petrol interceptor before discharging to the public foul and surface water sewerage system. Thus, the pollution risk associated with this use would be mitigated.

7.19. Having regard to the nature and scale of the proposed development, 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. That this proposal be permitted.

9.0 Reasons and Considerations

Having regard to the Wexford Town and Environs Plan 2009 – 2015 and the planning history of the site, it is considered that, subject to conditions, the proposal would be acceptable under the commercial and mixed use zoning of the site and it would be compatible with the residential amenities of the area. As the use would be conducted in conjunction with the existing car valeting use, no traffic issues would arise. Drainage arrangements would be satisfactory and no Appropriate Assessment issues would arise. The proposal would thus accord 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 10th day of July 2017 and by the further plans and particulars received by An Bord Pleanála on the 21st day of September 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 development shall be amended as follows:
 - (a) Acoustic housing shall be installed around the diesel powered washer.
 - (b) The diesel used in the power washer shall be stored within a bunded area.

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: In the interests of residential amenity and to mitigate the risk of pollution.

3. The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at any point along the boundary of the site or the equivalent at any point outside this boundary between 0800 and 1800 hours, Monday to Friday inclusive but excluding bank holidays, and shall not exceed 45 dB(A) at any other time. 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.

4. The developer shall pay to the planning authority a financial contribution of €1,200 (one thousand two hundred 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.

Hugh D. Morrison
Planning Inspector

16th November 2017