



An
Bord
Pleanála

Inspector's Report ABP 300146 - 17

Development	Extension to existing yard permitted under P. A. Reg. Ref. 02/504, for storage for vehicles to service existing car sales/repairs garage and showroom and erection of perimeter fence.
Location	Tirlickeen and Moneyfad, Ballymahon, Co. Longford.
Planning Authority	Longford County Council.
P.A. Reg. Ref.	17/185.
Applicant	Peter Hanley
Type of Application	Permission.
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Colm and Una Ledwith.
Date of Site Inspection	27 th February, 2018.
Inspector	Jane Dennehy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	8
6.3. Planning Authority Response	11
7.0 Assessment.....	11
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	15

1.0 Site Location and Description

- 1.1. The site of the proposed development has a stated area of 1.3 hectares and is located on the north-east side of the R393 in a rural area circa 1.5 kilometres to the north of Ballymahon and a short distance to the north of the Royal Canal. To the north-west side is filling station and an agricultural supplies outlet and to the south east is a detached house with front and rear gardens which is occupied by the appellant party. The applicant operates a used car sales outlet and crashed cars his premises where there are offices, workshops, storage containers and associated buildings and extensive hard surfaced space throughout which used cars are parked.
- 1.2. The area subject of the application into which the applicant seeks to extend the storage of used cars for sale element of his business adjoins the south-east boundary of the existing business in the applicant's ownership along which there is fencing and locked gates. This area is located directly at the east side of the rear boundary of the adjoining residential property. The ground within the site of the proposed extension contains some materials which appear to have been imported from site clearance works elsewhere and rough scrubland. There are watercourses along the inner sides of the boundaries and a raised area, (for percolation serving the existing development) is at the northern end. Trees and hedgerows are located on the boundary with the adjoining residential property.

2.0 Proposed Development

- 2.1. The application submission, supplemented by further information lodged with the planning authority on 3rd July, 2017 and 19th September 2017, indicates proposals for an extension to the south-east side of existing yard in which a new perimeter fence is to be erected. The extension is to be used for storage of vehicles for the existing sales and repairs business operated by the applicant for which permission was granted under P. A. Reg. Ref 02/502. (Details under section 4 below.)
- 2.2. Semi mature trees are to be planted in two rows inside the southern boundary with the adjoining residential property. The ground within the site is to be levelled, and finished with a concrete/tarmacadam surface with a fall in an easterly direction. The

proposed means of drainage is via a petrol interceptor and drainage channel to the adjoining open drain.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 13th October,2017 the planning authority decided to grant permission subject to thirteen conditions, most of which are of a standard nature.

Condition No 3 contains requirements for a compliance submission in respect of a specification or and provision of an attenuation tank.

Condition No 4 contains requirements for restriction of the use of the site for parking storage of vehicles for sale and excludes any use for storage of end of life vehicles.

Condition No 5 contains requirements that all drainage arrangements accord with requirement of the Water Services Section of the Local Authority and Irish Water, to be upgraded where necessary and, should alterations be planned, a compliance submission is required.

Condition No 10 contains requirements for two rows of semi mature trees to be planted on the south west boundary in a combination of native deciduous or evergreen species with exotic species not being permitted.

Condition No 12 contains requirements for a compliance submission in the event of future alterations for achievement of energy efficiency or use of renewable energy resources.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer having considered the initial application and the further information submission and technical reports and third party submissions indicated satisfaction with the proposed development subject to conditions in his final report.

3.2.2. Other Technical Reports

The internal report of the Area Engineer indicates no objection subject to standard requirements.

The report of Irish Water indicates no objection subject to standard requirements.

3.3. **Third Party Observations**

A submission from the Appellant party indicates a request that permission be refused in that the proposed use is unsuitable for rural area and concerns are expressed about, negative impact on residential amenity traffic safety and convenience, visual impact and light and environmental pollution.

4.0 **Planning History**

4.1. A brief outline follows.

P. A. Reg. Ref. 02/504: Permission was granted for retention of the vehicle compound boundary fencing and entrance. The permitted development on the site has been subject of an Enforcement History at the planning authority.

P. A. Reg. Ref. 06/59: Permission was granted for three 40,000 litres capacity underground fuel tanks and associated pipes and manholes, oil interceptor and minor alterations to the existing pumps and associated works.

P. A. Reg. Ref. 08/536: Permission was granted for an extension to the existing workshop on the site.

P. A. Reg. Ref 10/333: A decision on this application for permission for retention of the septic tank and percolation area was not determined.

P. A. Reg. Ref. 11/5: Permission was granted for:

Replacement waste water treatment system and percolation area with the existing septic tank and percolation area being decommissioned and,

Retention for the existing parking and traffic arrangements for the display of vehicles for sale, including alterations to the site boundaries and, enlargement of the site area and site development works.

P. A. Reg. Ref. 12/274: Permission was granted for retention of the commercial building in use for repair and sale of tyres and site works and for change of use of part of the shop which is converted into café/restaurant use.

P. A. Reg. Ref. 14/41: Permission was granted for demolition of a commercial building in use for repair and sale of tyres (permitted under P. A. Reg. Ref. 12/274), and for construction of a workshop with lean to for serving a repair of vehicles and ancillary works.

P. A. Reg. Ref. 15/49: Permission was granted for retention of alterations to permitted workshop permitted under P. A. Reg. Ref 14/41; Retention of relocation of a commercial building permitted under P. A. Reg. Ref. 12/274; Permission for construction of a concrete yard and palisade fence, an increase in site boundaries to facilitate tyre storage, replacement of a door ope with a glass facade and pedestrian access on the south east elevation, installation of a roller shutter door on the north east elevation of the garage showroom and ancillary site development works.

P. A. Reg. Ref. 16/213: Permission was granted for an extension at the south-east side elevation of the garage showroom for office and administration use along with a door ope on the front façade and, relocation of a security access gate.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Longford County Development Plan 2015 – 2021.

The site location is outside the settlement development envelope of Ballymahon. The location is in a rural area intended for agricultural and related rural land use.

Ballymahon is categorised as a one of two Local Service Towns in the settlement hierarchy, the other town being Lanesborough.

Zonings for Ballymahon are in Appendix 1D (Serviced Settlements)

Policies ECON 1, ECON 6 (within Section 4.2.1 provide for encouragement of development, with reference to the County's settlement strategy. It allows for with exceptions in certain circumstances to location of development within the zoned or designated areas and for development in non-rural uses in agricultural areas being subject to assessment on a site by site basis,

According to Policy ECON 6:

"Where an area of land is outside a settlement (i.e. an area not identified as part of the Core Strategy, as listed in this document), and is not otherwise zoned as part of this Development Plan or other statutory document, the use of such land shall be deemed to be primarily agricultural. This provides for agricultural and ancillary uses, including residential. Other uses may be permitted subject to assessment on a site-by-site basis against relevant development management standards and technical criteria, including the other policies and objectives contained within this plan."

According to section 4.1 which relate to Policy ECON 6, business parks have been provided in Ballymahon to facilitate business and employment in the local economy.

Policy ECON 13 provides for development management standards.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Emma Pillion on behalf of Colm and Una Ledwith occupants of the property to the south side of the application site on 7th November, 2017. An outline is set out below:

- The application site is in an undeveloped rural area, remote from foul and surface water services. Further expansion and intensification in an unserved rural area would contravene zoning objectives by undermining the development of zoned sites within the Ballymahon development envelope.
- The proposed development is seriously injurious to the residential amenities of the appellant party's property. It is part of a piecemeal development which has been expanding, would be visually incongruous in the landscape, would

wrap around the appellant's property, would materially alter a rural environment and character and storage of vehicles would adversely impact on visual amenities of enjoyed at their property. The incremental and piecemeal expansion of the operations on the site has been deleterious in impact on the long established residential amenities of the appellant's property and further development is also prejudicial to the amenities of the rural area.

- The cumulative environmental impact of existing development in conjunction with the proposed development of the extension has not been assessed. The development is suitable for a location where bunding and services are available. There is no bunding and there is reliance of a private waste water treatment system. The appellant reported an oil spill to the local authority in April 2016. There is substantial environmental risk which has not been addressed in the application. There is no assurance that the proposed development would not give rise to irreversible impact on water bodies in the vicinity.

The day to day operations at existing repairs workshop and the breaking of vehicles gives rise to noise, traffic, light pollution the effect of which on the Appellant's property would be exacerbated by the proposed development. Increased light and noise is a serious material concern.

- The proposed development would interfere with the safe and efficient flow of traffic on the R392 and would endanger public safety by reason of traffic hazard. It would result in additional turning movements on the road where the 80 kph speed limit applies and there are no turning bays or hard shoulder.

The expansion of the operations would contribute to unnecessary and dangerous traffic manoeuvres on the R392 and would contravene development plan policy for the safeguarding of the road network for safe and efficient movement of inter-regional traffic outside urban areas.

- There has been no consideration by the planning authority of the past failures to obtain planning permission on the site and to comply with planning permission conditions and too much consideration for the existing use in considering the proposed extension. It seriously affects the residential amenities and visual amenities in the rural area and property value.

6.2. Response to the Appeal by the Applicant.

6.2.1. A submission was received from Sean Lucey on behalf of the applicant on 7th December, 2017. A brief outline follows:

- There is a long established and authorised cluster of commercial development on the outskirts of Ballymahon which has been in existence for twenty years and is circa 370 metres from the 60 kph speed limit. The proposed development relates to a non-conforming permitted use and is at a serviced site solely used for parking of vehicles associated with the permitted development and there is no substance to the case that it lacks services. The expansion would not be prejudicial to the realisation of development within the development envelope of the town and it does not contravene Policies ECON 1, ECON 6 which encourage development, having regard to the settlement strategy for the county, with exceptions in certain circumstances, with non-rural uses in agricultural areas being subject to assessment on a site by site basis, ECON 13 (development standards) RUE 2 and RUE 3 relating to rural development enterprises and expansion of small scale rural enterprise. Longford County Development Plan Policies:

- The contention as to detrimental impact on the amenities of the appellant residential property is rejected. The sole use is for parking only, is consistency with the development plan policy objectives, especially Development management standards (ECON 13) and visual impact is light in that the mitigation by screen planting of a double row of trees on the boundary with the appellant property is included. As part of the site is at present used for percolation limited parking will take place adjacent to the boundary. The applicant is also willing to arrange for vehicles to enter and leave the site at the northern end of the percolation area.
- All development on the site is authorised and although the incremental expansion over the years is acknowledged the expansion have been necessary. The approach to planning has not been laissez-faire.

- The claim as to inadequately assessed cumulative environmental impact arising from incremental unauthorised development is misleading and is rejected. Most of the planning applications have related to extensions associated with the permitted uses and structures on the site. There is no substantial risk factor because a petrol/oil interceptor is to be provided and there are conditions attached to the decision to grant permission relating to design and installation of an attenuation tank.
- As the applicant's existing business shares a boundary with the Appellant property some negative impacts. The current application does not include floodlighting proposals and noise impact will be minimal and, furthermore, the applicant is willing to arrange for access and egress by vehicles via the northern side of the percolation area and with the screen planting being provided there is no potential exacerbation of noise or lighting impact on the appellant's property.
- There are unlimited sightlines at the entrance in both directions on the R392 the location being within the 80 kph speed limit on the outskirts of Ballymahon and turning movements at the entrance do not give rise to traffic hazard. Traffic generation by the proposed development will not be significant so it would not compromise safety of traffic on the regional route.
- A correct approach has been taken to the preparation of the application and the assessment of it by the planning authority which is demonstrated in the conditions that were attached to the decision by the planning authority.
- Visual impact (from the perspective of the appellant property) is addressed by the raised percolation area within the view from the garden and the propped screening at the boundary. The applicant purchased the site twenty years ago for the express purpose of carrying out the business operated on the site. The appellant party was fully aware of the at the time so there was agreement on the party of the appellant that the permitted operations were acceptable. The use of the appeal site itself is solely for the parking of car space for sale and is not associated with the other permitted development. Impacts will be negligible in nature and, it will not increase deleterious impacts on the

appellant property. Given that the area is that of a commercial cluster the proposed development will not depreciate the value of his property.

6.3. **Planning Authority Response**

There is no submission from the planning authority on file.

7.0 **Assessment.**

7.1. The issues considered central to the determination of the decision are that of

Expansion of a non – conforming use.

Impact on free flow and safety of traffic on the R392.

Impact on water quality - Surface water drainage arrangements

Impact on Visual Amenities and Rural Character of the area

Impact on residential amenities of the adjoining property,

7.2. **Expansion of a non – conforming use.**

7.2.1. The applicant operates a successful commercial business at the site which he has extended, upgraded and expanded since he acquired the site circa twenty years ago. While the convenient location on the R392, close to Ballymahon, is appreciated there is no dispute that it is at a significant distance from the development envelope of the town. Ballymahon, one of the two designated local service towns (which are secondary to the principle county town) in the settlement hierarchy. It is the policy of planning authority as reflected in the County Development plan that development should be directed to designated areas within the development envelope of settlements providing for consolidation of the settlement, use of available public services infrastructure and facilities, avoidance of a leap frogging effect and sprawl and, retention of national and regional routes in the road network for movement of traffic between destinations with turning movements at individual entrances directly onto and off the route being discouraged.

7.2.2. The extension of facilities for the existing relatively large business operation by way of provision for storage of vehicles for sale onto the proposed site is a considerable

expansion and intensification of the existing business having regard to the total space for two hundred vehicles required. Such an expansion and intensification of a non-conforming use of a commercial nature cannot be justified at a location not designated for development other than agricultural or rural related development.

7.2.3. In view of the extent of intensification of commercial use having regard to the proposed incorporation of an additional site of significant size into the business, the additional numbers of vehicles to be stored and, a requirement for provision of additional private facilities to those serving the existing development it is considered that the proposed development would be in material conflict with the strategic policies of the Longford County Development Plan, 2015-2021 providing for commercial and industrial development in designated areas within settlement boundaries, particularly Policy ECON 6 within section 4.2.1.

7.3. Impact on free flow and safety of traffic on the R392.

7.3.1. It is indicated in the application that a total of thirty trips per day are anticipated, along with one HGV trip. It is agreed that traffic flow and convenience and safety would not be adversely affected by trip generation of this quantum especially, given the location on a section of the R 392 where the sightlines are satisfactory in both directions, having regard to the maximum speed limit of 80 kph. While it is acknowledged that there is an existing entrance and business at the site location, it national policy for the discouragement of use of entrances direct onto the regional and national road network, to facilitate the free and safe movement of traffic between destinations be borne in mind. However, in the subject instances it is considered that the proposed development of the extension could be accepted.

7.4. **Impact on water quality - Surface water drainage arrangements**

7.4.1. The observation within the appeal as to concerns about incremental expansion of the business operation on the site has been noted. Given the considerable expansion and intensification of use to be incorporated into the site of the overall development, and extent of hard, impermeable surface required to facilitate the proposed storage of vehicles, it is considered that fully comprehensive calculations and design details for the proposed surface water drainage system are required in order to facilitate consideration of the proposed development. Although outline proposals indicating a commitment to provide for a drainage system incorporating attenuation and oil and

petrol interception and conditions have been attached to the decision to grant permission, it is considered essential that full details should be available for assessment purposes so that there is assurance that the proposed development can be satisfactorily drained without risk of pollution of waterways prior to determination of a decision. As such, it is considered that there is insufficient information available to facilitate consideration of the proposed development. If it is concluded that the proposed development could otherwise be favourably considered, it may be appropriate to provide the applicant with an opportunity by way of section 132 notification, to submit comprehensive calculations and design details for the proposed arrangements.

- 7.4.2. As explained under section 7.2 above, it is considered that development of the nature proposed is should be located within serviced urban areas, and in this instance, within the development envelope of Ballymahon in accordance with the strategic policy and objectives of the Longford County Development Plan, 2015-2021. To this end, the proposed development is considered unacceptable.

7.5. Impact on Visual Amenities and Rural Character of the area.

- 7.5.1. It is agreed with the appellant party that an expansion to a commercial development of the scale and nature proposed is inappropriate to and, out of character with the rural character of the area intended for agricultural related uses. While there has been an established business operation at the appeal site's location outside Ballymahon, it has been expanded and extended over the years increasing the visual prominence and impact on the rural character of the area of a commercial operation. The proposed development amounts to an exacerbation of this impact on the rural character notwithstanding the undertaking to incorporate the proposed landscaping and extensive screen planting scheme which includes two rows of semi mature trees along boundaries. The necessity for provision for such extensive mitigation is a cause for concern. It is considered that the proposed development would increase and therefore exacerbate adverse impact on the visual amenities and rural character of the area and is undesirable to this end.

7.6. Impact on residential amenities of the adjoining property,

- 7.6.1. The residential dwelling of the appellant party is located on a large plot outside the settlement boundary of Ballymahon in the rural area, not zoned for residential use

with frontage onto the R 392 immediately to the south west side of the appeal site. In effect, the proposed area for the extension of the applicant's business is directly behind the boundary of the rear garden and utility space at the appellant's property. The proposed development involves a change in the immediate environs of the appellant's property from unutilised land of rural character the amenity of which the appellant party values to a use of a commercial nature comprising extensive for the storage of vehicles for sale in a carpark. The potential effect of a use that can be described as a carpark however is not comparable in impact a carpark for public use whereby vehicular movements and circulation would be considerable. Movement of vehicles would be relatively infrequent in comparison and the applicant's willingness to use a route at the northern end of the existing percolation area is noted.

- 7.6.2. In the event of favourable consideration of the proposed development a condition could be included whereby movement of vehicles is restricted to business hours and any proposals for lighting, other than lighting that is exempt development could be excluded from the grant of permission allowing for future proposals for lighting to be subject to further planning review by way of a separate planning application. Taking the foregoing into account, it is considered that the proposed development would not unduly adversely affect the standard of attainable residential amenities of the adjoining property and would not be unreasonable in an urban area.

7.7. **Appropriate Assessment.**

- 7.7.1. Having regard to and to the extent and nature of the proposed development no Appropriate Assessment issues for the proposed development would arise. It is concluded that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site. Stage 2 Appropriate Assessment Screening is therefore not required.

8.0 **Recommendation**

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to grant permission be overturned and that permission be refused on grounds relating to the strategic economic development policy objectives of the Longford County Development Plan, 2015-2021 relating to the location outside Ballymahon's development envelope and due to insufficient information on the proposed surface

water drainage arrangements. However, in the event of favourable consideration of the proposed development otherwise, the applicant could be provided with an opportunity to provide the relevant information on the proposed drainage arrangements by way of section 132 notification prior to determination of a decision. Draft reasons and considerations for a decision to refuse permission follow.

9.0 Reasons and Considerations

1. It is the policy of the planning authority to provide for and direct development which is not related to agriculture or the rural economy into the designated areas within the development envelope of Ballymahon, a secondary local service centre in which connection to services is available and facilities exist according to the Longford County Development Plan, 2015-2021. It is considered that the proposed extension to the existing commercial development constitutes a major expansion and intensification of a non-conforming use at a location in rural area primarily intended for agricultural use outside the development envelope of Ballymahon and reliant on a private waste water treatment system would undermine and materially contravene this policy and would be contrary to the proper planning and sustainable development of the area.
2. Based on the information that is available in connection with application and the appeal on the proposed surface water drainage arrangements The Board is not satisfied that the proposed development would not cause pollution of the watercourses and be prejudicial to public health.

Jane Dennehy
Senior Planning Inspector
6th March, 2018.