



An
Bord
Pleanála

Inspector's Report ABP-300714-18

Development	Change of use of former garage / car showroom area to convenience shop and café and works to upgrade fuel service station
Location	Reid's Filling Station, Pearse Road, Letterkenny, County Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	17/51626
Applicant(s)	J.J. Reid
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Eddie Tobin
Observer(s)	None
Date of Site Inspection	24 th April 2018
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.27ha and comprises a former fuel service station with extensive forecourt area at the junction of Pearse Road (R250 regional road) and Canal Road, on the southside of Letterkenny town centre in County Donegal. The former fuel service station included a convenience shop adjoining a garage / car showroom. The site is largely open onto Pearse Road, where vehicular access is available to the site, and also to a commercial fuel providers' yard, National Fuels, and a car sales courtyard, J.J. Reids, to the rear of the site. Extensive hardstanding areas are available to the southwest side and front of the buildings on site. The rear boundaries with National Fuels and J.J. Reids are formed by a 2.2m-high palisade fence and gates, while there is a low wall for short sections along the roadside boundary.
- 1.2. The immediate area is characterised by a range of commercial uses typical of a town centre and edge-of-town centre location, including shopping centres, car showrooms and various commercial and retail services. There are residential properties, a multi-storey car park and a Bed & Breakfast facility on the opposite side of Pearse Road to northeast of the appeal site. A retail park is situated to the northwest of the appeal site, on the opposite side of Canal Road. A one-way traffic-management system operates along Pearse Road and Canal Road adjoining the site, with both roads comprising two traffic lanes, cycle tracks and footpaths on both sides. Traffic movement at the junction of Pearse Road and Canal Road is controlled by traffic lights including a pedestrian crossing point adjacent to the site. Ground levels on site drop gradually towards the south.

2.0 Proposed Development

- 2.1. The proposed development comprises redevelopment of a former fuel-service station to comprise the following:
 - change of use of former garage / car showroom area and revised internal layout to create a new convenience store and café premises, including café

seating area, shop floor, preparation and storage areas at ground floor, and seating area, washroom facilities and storage areas at first floor;

- construction of a single-storey extension to the southwest side to form entrance lobby area, demolition of an open storage area to the northeast side to be replaced by a single-storey side extension containing shop storage space;
- revisions to front forecourt service area comprising relocation and extension of the existing canopy structure, revised locations for fuel pumps and replacement fuel tanks, both overground and underground, as well as advertisement signage, including totem pole sign;
- revised layout to the front and side forecourt areas to provide for 31 no. car parking spaces, five cycle parking spaces and revisions to the boundary along Pearse Road to create separate vehicular entrance and vehicular exit arrangements.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission subject to ten conditions, the majority of which are of a standard nature, but also including the following requirements:

C.2 front entrance/egress and boundary treatment requirements;

C.3 resurfacing of footpath to front.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (December 2017) noted the following:

- proposals seek to reconfigure the existing facility and to regulate and define entrance and egress arrangements;
- as the proposal involves alterations to an existing operational fuel service station, there is no objection in principle.

3.2.2. Other Technical Reports

- Executive Chemist – additional information requested (measures for prevention of pollution from fuel storage in a flood plain);
- Executive Engineer – outlines alterations required;
- Road Design – outlines conditions to attach;
- Fire Officer – no objection, subject to conditions.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third-Party Submissions

3.4.1. One submission was received from Eddie Tobin of Port Road in Letterkenny, which is situated approximately 650m to the northwest of the appeal site and the issues raised are covered under the grounds of appeal below.

4.0 Planning History

4.1. Appeal Site

4.1.1. The appeal site has been subject to numerous recent planning applications, including the following:

- ABP Ref. PL05E.249293 / Donegal County Council (DCC) Ref. 17/51088 – Planning Authority initially granted permission, but the application was subsequently withdrawn on appeal by the applicant (October 2017) for relocation and extension of canopy to fuel station, moving fuel dispenser and pumps, replacement of two underground tanks, provision of underground pipes, new control building, store plant, ATM and signage;
- DCC Ref. 16/51434 – retention permission granted (December 2016) for part change of use from garage showroom to retail shop, with open storage area on north elevation, steel container to forecourt area and signage. The steel container was conditioned to be removed within one year of the permission.

4.2. Surrounding Sites

4.2.1. Reflective of this inner-urban built-up location, there have been numerous recent applications for development on neighbouring properties, including the following:

- Pearse Road B&B (directly opposite the appeal site) – DCC Ref. 17/51756 – permission granted (January 2018) for change of use of existing storage unit to ancillary accommodation and demolition of annex to front of the building;
- The Courtyard Shopping Centre (65m to the northwest of the appeal site) – DCC Ref. 15/50373 – permission and retention permission granted (June 2015) for change of use of part of car park to commercial/retail/storage use and retention or internal works.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Letterkenny & Environs Development Plan 2009-2015 remains the operative statutory plan for this area. In extending the life of the Plan the Planning Authority refer to the need to read the Plan in conjunction with the County Development Plan. The Plan identifies the site as being within the 'town centre' land-use zoning, with an objective 'to sustain and strengthen the core of Letterkenny as a centre of commercial, retail, cultural and community life'. The Planning Authority has recently commenced pre-draft consultation on the preparation of a Local Area Plan for Letterkenny.

Retail

5.1.2. Chapter 7 of Volume 1 to the Plan refers to town centre and retailing policy, where it is outlined under policy RT1 that proposals for retail developments shall be considered in accordance with the amended objectives, frameworks and associated policies of the Retail Strategy contained in Volume 2 of the Plan. Policy RT3 outlines 'General Criteria for Retail Developments' including:

- comply with the sequential approach;
- provide safe and easy access for a range of transport modes;

- comply with the car and bicycle-parking standard;
- provide a high design standard;
- impact upon the flow of vehicular traffic;
- provide adequate arrangements for surface water and flood prevention.

5.1.3. In relation to the 'location of certain types of retail development', Policy TC20 of the Plan states that 'proposals for the development of new, the extension of existing, or the change of use of buildings to Car Retailing Showrooms/Lots, Builders Merchants or large scale outlets predominately dedicated to the wholesale trade, will not be permitted within the town centre area'.

5.1.4. Volume 2 to the Plan outlines the Retail Strategy for Letterkenny and its environs. Within this the Plan recognises new retail formats including 'stand-alone petrol station stores with wider than usual products' and outlines the need for policy regulating the size of forecourt retailing, as they are increasingly seen as a threat to the vitality and viability of town centres. In order to ensure town centre vitality and viability, the Plan utilises the sequential approach to guide the location of retail development. Under this policy the town centre is the preferred location for retail development. Table 6.7 outlines the preferred retail locations and outlines that within the town centre, regional, county, district and local scale, comparison, convenience and bulky goods would be acceptable and that car showrooms should be excluded. The following objective is of relevance in consideration of this appeal:

- Objective 7 – 'To encourage and facilitate the re-use and regeneration of derelict land and buildings for retail uses, with due cognisance to the Sequential Test'.

Fuel Service Stations

5.1.5. Volume 2 of the Plan outlines development management standards with respect to 'petrol stations' and while this primarily relates to new petrol stations, it is clear that certain standards would also apply where significant redevelopment of existing facilities are proposed, including:

- a low wall, approximately 0.6m in height, along the road frontage;

- a maximum of 2 road access points shown to be in accordance with the NRA DMRB (National Roads Authority - Design Manual for Roads and Bridges);
- no signage shall obstruct visibility over the site access;
- a shop/café of up to 100sq.m of net retail/café area may be allowed when associated with a petrol filling station. Where retail/café space in excess of 100sq.m is proposed, the sequential approach will apply.

Traffic & Parking

5.1.6. Policy T6 of the Plan refers to 'Strategic Roads; Traffic and Transport Assessment' and looks to a). Implement the Transport Infrastructure Ireland (TII) Traffic and Transport Assessment Procedures for all Planning Applications and b). Require that a Road Safety Audit be carried out as part of any development that involves a change to the existing road layout.

5.1.7. Policy T10 refers to the requirement to meet the minimum parking standards outlined in Volume 2 of the Plan, where it is a stated requirement for a 'petrol service station' to provide one car space per 90 sq.m of gross floor area and one cycle space per 8 staff.

Other Sections

5.1.8. Other relevant policies and maps of the Plan including the following:

- Policy NE9 - Flood Risk Assessment - The Councils will manage flooding through the assessment of flood risk through high-risk exclusions, managed risks and based on supporting information;
- Policy NE11 - Surface Water Management;
- Policy N15 - Signage Policy;
- Map 6 - Urban Design Framework.

5.2. **National Guidelines**

5.2.1. The Retail Planning Guidelines for Planning Authorities are relevant and these place a cap of 100sq.m on net retail floorspace within fuel service stations, otherwise the sequential approach to retail development should apply. The Guidelines also outline

that in considering applications for development, attention should also be given to the safety aspects of circulation and parking within the station forecourt.

- 5.2.2. The TII document 'Traffic and Transport Assessment Guidelines' (2014) are relevant. The Guidelines include criteria to be used when considering whether or not a development should be subject of Traffic and Transport Assessment.
- 5.2.3. Volume 5 Section 2 of the Design Manual for Roads & Bridges refers to Road Safety Audits and outlines that a development should be audited at design stages where it would result in a change to the road or roadside layout, including where sightline improvements are proposed and changes to pavement cross sections.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The principal grounds of appeal can be summarised as follows:

Flood Risk & Services

- insufficient information provided regarding flood risk and surface water drainage, contrary to Development Plan Policy NE9;
- absence of details regarding servicing;

Traffic and Road Safety

- intensification in use of the site would undermine traffic and road safety and lead to traffic congestion;
- absence of a traffic impact assessment and road safety audit addressing TII standards, heavy goods vehicles (HGV) movements and access to the premises to the rear;
- a significant oversupply of parking would arise and cycle parking to Development Plan standards is not provided;

Design

- proposals fail to meet development management standards and urban design objectives of the Development Plan;
- absence of boundary treatments;

- light, noise and odour impacts require consideration from a residential amenity perspective;

Retail Policy

- the sale of hot food is not permitted, yet significant restaurant space is proposed;
- floor area proposed exceeds limitations set within the Retail Planning Guidelines 2012;
- details of the restaurant use and ancillary services have not been provided.

6.2. **Planning Authority Response**

- 6.2.1. The Planning Authority responded to the grounds of appeal to state that they consider the matters raised within the appeal, to have been previously addressed in their Planning Report on the application.

6.3. **Applicant's Response**

- 6.3.1. The applicant did not respond to the grounds of appeal.

6.3.2. **Observations**

- 6.3.3. None.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Principle of the Development;
- Retail Impact;
- Parking, Access & Traffic;
- Flood Risk.

7.2. Principle of the Development

- 7.2.1. The proposal is for the reuse of a vacant fuel service station, including previous car showroom area and a convenience retail unit, to include an additional sit down café facility and various alterations to the layout both internal and external. The Planning Authority considered that, as the proposals involve alterations to an existing fuel service station, there is no objection in principle. According to the Letterkenny & Environs Development Plan 2009-2015, the site is situated to the southside of Letterkenny town, in an area adjacent to the 'traditional town centre', but nevertheless within the 'town centre' zoned lands. The stated land-use zoning objective for 'town centre' sites is 'to sustain and strengthen the core of Letterkenny as a centre of commercial, retail, cultural and community life'. Various infrastructure associated with the previous fuel service station remain on site and much of this would be upgraded as part of the subject proposals.
- 7.2.2. With regard to the appropriateness of the site location, the applicant states that the car showroom and service station were first opened on the subject site in 1971 and closed in 2017. In 2016 the Planning Authority granted retention permission for a convenience retail shop along with other facilities and works on the site (DCC Ref. 16/51434). There are similar type facilities to that proposed in the immediate town centre area, including Tobin's on Port Road. In relation to the 'location of certain types of retail development' Policy TC20 of the Plan states that 'proposals for the development of new, the extension of existing, or the change of use of buildings to car retailing showrooms/lots, builders' merchants or large-scale outlets predominately dedicated to the wholesale trade, will not be permitted within the town centre area'. The proposed development would replace part of the existing car showroom facility.
- 7.2.3. The grounds of appeal assert that the proposals fail to have regard to the urban design framework set out within Map 6 of the Development Plan. As the proposal would not entail a complete redevelopment of the site, I am satisfied that the necessity to meet urban design objectives specific to this site would not apply.
- 7.2.4. In conclusion, the site has a well-established use as a fuel service station. It is noted that the site currently has a derelict appearance and detracts from the visual amenities of the area. It is considered that the proposal to reuse the site would

provide some positives, in reinvigorating and upgrading the facility on site at a prominent location within the town centre, as supported by Objective 7 of the Development Plan. Having regard to the above and the planning history of the site, the zoning objective pertaining to the lands under the current Development Plan and the significant physical infrastructure that remains in situ, I consider the principle of the development to be acceptable.

7.3. Retail Impact

- 7.3.1. The grounds of appeal assert that the floor area proposed exceeds limitations set within the Retail Planning Guidelines for Planning Authorities (2012). The Retail Planning Guidelines outline that the net floorspace for a shop within a fuel service station should not exceed 100sq.m and where permission is sought for floorspace in excess of 100sq.m, the sequential approach to retail development shall apply. Within the Letterkenny & Environs Development Plan 2009-2015 new retail formats including 'stand-alone petrol station stores with wider than usual products' are recognised and policy regulating the size of forecourt retailing is recommended, as they are increasingly seen as a threat to the vitality and viability of town centres. Regardless of the type of location, for example town centre or out-of-centre, both the Retail Planning Guidelines and the Development Plan require use of the sequential approach to assess proposals for net retail floorspace in fuel service stations exceeding 100sq.m.
- 7.3.2. A retail impact statement or similar study has not been submitted with the planning application. The existing vacant convenience store would appear to amount to approximately 98sq.m, while the proposed net retail and café floorspace would appear to amount to approximately 258sq.m. It is not entirely clear how this would be split between convenience retail use and café use, and the applicant has not provided rationale or addressed the sequential approach to allow for net retail floorspace above 100sq.m. To facilitate monitoring and enforcement of retail space, this space should be clearly delineated on the planning application drawings.
- 7.3.3. In conclusion, while the site is situated within the town centre, there is a clear onus within both the Retail Planning Guidelines and the Development Plan to restrict the extent of retail floorspace, when associated with fuel service stations. Given the absence of information regarding the retail impact of the proposed development,

including sequential assessment, should the Board be minded to grant permission for the proposed development, I consider a condition should be attached to the permission, requiring delineation of the net retail floor space on the planning compliance drawings in order to restrict the net retail floorspace below 100sq.m and to protect the vitality and viability of the town centre. Therefore, subject to such a condition, I recommend that permission should not be refused on the basis of retail impact.

7.4. Parking, Access & Traffic

- 7.4.1. Policy RT3 of the Development Plan requires assessment of access, parking, traffic and servicing, when considering the 'General Criteria for Retail Developments'. The grounds of appeal assert that a significant oversupply of parking would arise and cycle parking to Development Plan standards is not provided. Minimum car parking standards for petrol service stations are outlined in Table 9 of Volume 2 to the Development Plan, which requires one car parking space per 90sq.m of gross floor space. The gross floor area based on the planning application form amounts to 419sq.m, therefore, in principle a minimum of five spaces would be required, while the proposed development would provide 31 no. spaces including two disabled bays. I note that there are no spaces allocated for HGVs, while the applicant states that these vehicles would be catered for on site. I consider the oversupply in parking to be indicative of the intensification in use of the site and that greater clarity is need regarding the extent of parking provision. I am also satisfied that the five cycle parking spaces serving the facility would suffice, given the Development Plan standard requiring one space per eight staff in a petrol-filling station.
- 7.4.2. The grounds of appeal assert that the intensification in use of the site would undermine traffic and road safety and lead to traffic congestion. The grounds of appeal also assert that the proposals are deficient as there is an absence of both a traffic impact assessment and a road safety audit addressing TII standards, HGV movements and access to premises to the rear of the site. Within the planning application cover letter, the applicant addresses the issue of traffic and states that 'there has never been any difficulty with either cars/vans or delivery vehicles entering or exiting the site'.

- 7.4.3. With the exception of two short sections of low stone walls, the existing site is largely open onto Pearse Road. Pearse Road comprises a one-way looped traffic flow system fronting the appeal site, including two-lanes of traffic, shared cycle paths and footpaths on both sides. The Canal Road / Pearse Road junction, includes pedestrian crossings and cycle paths, and traffic flows are controlled by traffic lights. Access is provided off Pearse Road through the site to other premises to the rear of the appeal site, including JJ Reid's Car Sales and National Fuels. As part of the subject proposals it is proposed to revise the forecourt layout, to delineate parking spaces and to construct a new wall along Pearse Road to provide for a separate vehicular entrance and exit. The car park area would be extended further into the site, absorbing part of the JJ Reid's car sales yard area. I note that JJ Reid's Car Sales is also provided with an access from Canal Road, but it is not clear from the drawings whether or not the existing second access via the appeal site would be maintained.
- 7.4.4. The Road Design Officer in the Planning Authority requested maintaining the low wall fronting the site adjacent to the pedestrian crossing at the Canal Road / Pearse Road junction. The Executive Engineer requested that a condition be attached to reduce the entrance width by 1m. Policy TP6 of the Development Plan requires a Traffic and Transport Assessment where TII guidance requires same and that a Road Safety Audit is prepared for any development involving a change to the existing road layout. It is of relevance to note that the development is already accessing the regional road network and the current proposals seek permission for a revised entrance and exit arrangement. However, the subject proposals would have significant potential to intensify the use of exit and entrance movements along Pearse Road with a high potential for conflicting movement between the patrons and staff of the fuel station and commercial premises to the rear. A totem pole is also proposed on the northwestern corner of the site. Elevation details of the sign have not been provided and its positioning has potential to obstruct views of approaching traffic, should vehicles choose to use the entrance area for exiting.
- 7.4.5. A Transport and Traffic Impact Assessment has not been submitted with the planning application. The TII 'Traffic and Transport Assessment Guidelines' (2014) outline thresholds of development that should be subject of Traffic and Transport Assessment. While the subject development would be sub-threshold, Table 2.3 of

the Guidelines outlines sub-threshold Criteria for Traffic and Transport Assessment and I consider that 'the character and total number of trips in / out combined per day are such that as to cause concern' given the extent of parking proposed and the use of the access by other premises to the rear, and that 'there are concerns over the development's potential effects on road safety' given the proposed exit directly onto a pedestrian crossing point, cycle path, a traffic-light controlled two-lane junction and the need to accommodate HGV movements.

- 7.4.6. As part of the application, the applicant did not provide a Road Safety Audit report, but did provide a Swept Path diagram on the site layout plan drawing (No.19-17b) for a heavy goods vehicle (HGV) entering and exiting the site via the proposed revised layout. HGV movement to all pumps is not shown and I would have concerns that the HGV movement shown is predicated on a specific pump being available on arrival and the pump directly to the northwest being free from obstruction upon exiting. Arrangements for vehicles entering and exiting the premises to the rear are not provided, and traffic would need to exit onto Pearse Road where traffic would be queuing at traffic lights. In conclusion, I am not satisfied that the principle and design of the proposed layout has given sufficient consideration for traffic and pedestrian movements to the commercial premises to the rear, HGV movements and the free flow of traffic along Pearse Road, as required under Policy RT3 of the Development Plan. The proposed development involving a significant intensification in use of the facility would be likely to lead to significant traffic hazard. Given the complexity of this issue, I am not satisfied that this can be dealt with via condition, and for the reasons stated above, the proposed development should be refused.

7.5. Flood Risk

- 7.5.1. The issue of potential flooding of the site has not been raised within the Planning Officer's report assessing the proposed development, but was addressed within a cover letter accompanying the application and also by the Council's Executive Chemist who sought further information regarding pollution prevention measures for underground tanks in the case of flooding. Consequently, this is not a new issue, but I believe that it is imperative that flood risk is comprehensively addressed in the application and appeal, irrespective of the existing development on site, particularly

considering the intensification in use and the provision of replacement underground tanks.

7.5.2. The applicant indicated in the planning application form that, to their knowledge, the site has never flooded. A letter prepared by Charles Byrne Engineering in part addressing 'flooding' accompanied the planning application. The letter outlines that the site does not have any flooding history and that only the western end of Pearse Street is susceptible to flooding, being within the 0.1% Annual Exceedance Probability (AEP) area of flooding.

7.5.3. The Catchment Flood Risk Assessment and Management (CFRAM) maps for the area, indicate that the site is outside of present day flood extents and is therefore in Flood Zone 'C', which has a low probability of flooding. Nevertheless, the Office of Public Works (OPW) document titled 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities' (November 2009) outline that a precautionary approach should be applied, where necessary, to reflect uncertainties in flooding datasets, while development should be designed with careful consideration to possible future changes in flood risk. The CFRAM maps identify that the site is within an area susceptible to flooding based on a high-end future scenario taking account of climate change (i.e. increase in rainfall of 30% and sea level rise of 1,000mm). While a Site Specific Flood Risk Assessment (SSFRA) would not be necessary based on the Flood Risk Guidelines, the proposed development would incorporate new underground tanks below surface level and would provide for significant intensification of use. I consider that further details would be required to address potential future flooding events, to ensure that all fuel storage on site is designed to safeguard against pollutants, such as fuels, entering flood waters. I am satisfied that this can be addressed via condition should the Board be minded to grant permission.

8.0 Appropriate Assessment

8.1.1. Having regard to the minor nature of the proposed development, the existing development on site and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a

significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1.1. I recommend that planning permission should be refused, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the nature and scale of the development proposed, including the significant intensification of use of the site, the proposed exit arrangements onto a heavily-trafficked route at a pedestrian crossing, cycle path and at a two-lane traffic-light junction, the potential for conflicting movements on site to premises to the rear of the site, to the limited area and restricted access and manoeuvring arrangements, particularly for HGV vehicles and the absence of both a traffic impact assessment and a road safety audit, the Board is not satisfied that the proposed development would not interfere with the safety of traffic travelling along Pearse Road (R250) and, thereby, would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

13th June 2018