



An
Bord
Pleanála

Inspector's Report ABP.301410-18

Development	Vehicle wash and valet, storage shed, open sided canopy, advertising sign and associated site works
Location	O'Shea's Garage St. Anne's Road, Killarney Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	17/1231
Applicant(s)	Arben Kastrati
Type of Application	Planning permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Arben Kastrati
Observer(s)	None
Date of Site Inspection	2 nd July 2018
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located in Killarney Town Centre, to the north of the main retail/commercial area. St. Anne's Road is located at the northern end of High Street and forms part of the N71, linking the southern part of the town with the main Killarney-Tralee Road (N22). The street is in mixed-use with mainly residential and commercial uses. The appeal site is located just to the east of the junction with High Street on the southern side of the road. Ground levels begin to rise to the east of the site along St. Anne's Road. Immediately to the east of the site, there is a row of detached 2-storey houses. The site opposite the appeal site seems to be in use as a therapy centre providing services such as physiotherapy.
- 1.2.** The site forms part of a larger premises which are known as O'Shea's Tyre and Battery Centre, and which has frontage to both High Street and to St. Anne's Road. There is a large building fronting High St., with a large open area to the rear, which is secured by means of palisade fencing and has a hardcore surface. The main vehicular entrance to the premises is at the eastern end, beyond which lies the appeal site. This area is also an open area with a hardcore surface, and is fenced by means of palisade fencing and incorporates a gated vehicular entrance onto St. Anne's Road. There is a further gated entrance at the western end of the main hard surface area.
- 1.3.** The eastern boundary of the site is defined by a part masonry, part stone wall, which is stated to be 2.8m high and which separates it from the adjoining residential property. The site area is given as 0.03ha. The submitted drawings include a plan which outlines the lands in the ownership of O'Shea's Garage, which includes almost the entire frontage to St. Anne's Road (excluding 2 properties to the west of the site) and extending along the frontage to High Street. It also includes two of the immediately adjacent residential properties to the east.

2.0 Proposed Development

- 2.1.** Permission is sought for the establishment of a car wash/valet use including the erection of a shed/canopy area and advertising signs on the road frontage. The submitted drawings indicate a car wash area in the south-western area of the site with 4 no. car waiting areas adjacent to the eastern boundary. The proposed canopy

area has a stated area of 27sq.m and would be located at the southern end of the site. The 2 no. advertising signs would be 2m x 0.7m and would be located on either side of the entrance gate from St. Anne's Road.

- 2.2.** The proposed use is described as a hand car wash, which it is stated the applicant already operates from two separate sites, one in Killarney and one in Tralee. It is stated that there will be a power hose with a pump, which be housed inside the shed during use. It is advised that the noise levels will be 80Lp dB(S) or 90Lw dB(A), but that the storing of the pump inside the shed will further reduce the noise levels.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for one reason which reads as follows:

It is considered that the proposed vehicle wash and valet area, located on site immediately adjacent to residential dwellings, would result in an unacceptable increase in the levels of noise and disturbance to the inhabitants of those properties.

It is also considered that inadequate provision has been made within the site for the turning and parking of customer cars prior to or following the provisional car wash services. Accordingly, the proposed development would endanger public safety by reason of traffic hazard, would seriously injure the amenities and depreciate the value of residential properties in the immediate vicinity and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

It was noted that the site is located in the town centre and is in close proximity to a number of residential properties. Reference was made to the previous planning decision on the site, which related to a refusal of permission for the retention of a

similar development on the grounds of unacceptable increase in levels of noise and disturbance and consequent loss of amenity to the adjacent dwellings. It was further noted that in the past, the site was used to sell farm machinery and that vehicles for sale were washed there on a regular basis. However, the area was partitioned off in 2004 and let out as a car care centre, which was deemed to be intensification of the use by the P.A., which resulted in a planning application that was refused. The Area Planner considered that there is no material change in the use currently proposed from that which was refused. It was further stated that had the applicant proposed a location closer to the tyre centre (and further away from the residential properties), a more favourable outcome may have been considered. It was also noted that the proposed signage was considered to be excessive.

Further information was requested in respect of the matters highlighted above as well as the proposed materials of the shed, and to include noise levels generated by vacuum cleaners. The applicant was strongly advised to consider relocation of the proposed use to the western end of the overall landholding and to address the issue of cars being left on the site for long periods of time, given its proximity to the town centre.

3.2.2. Other Technical Reports

Environment – in the event of complaints being received in respect of noise nuisance, the applicant will be required to engage the services of an acoustic specialist to establish the cause of such nuisance and the remediation measures required in order to abate such nuisance.

Fire Services Dept. – no objection to development but notes that a Fire Safety Certificate and a Disability Access Certificate will be required.

3.3. Prescribed Bodies

TII – no observations to make.

3.4. Third Party Observations

David Fitzpatrick St. Mary's Place, Ballygunner, Waterford – Objections raised as follows:

- Noise and disturbance associated with the development (vacuum cleaners as well as washing equipment) and impact on residential amenity
- Over-intensification of use of the site
- Inadequate space to cater for parking of cars associated with the use on site and associated traffic hazard due to parking on the road and reversing onto St. Anne's Road. Cars should not be permitted to turn right onto St. Anne's Road.
- Materials for proposed shed inadequately detailed.

3.5. Response to Further Information

The applicant responded to the FI request of the 19th February 2018. The FI response may be summarised as follows:

- The materials/finish of the proposed shed will be steel tech metal (revised drawing attached). Colour can be conditioned.
- Confirmation that customers will be required to stay with their cars at all times, hence no customer parking will be required. The car wash would take 5-7 minutes and the valet, 15 minutes.
- The noise issue has been addressed in a revised noise report which includes potential nuisance from vacuum cleaners. It should also be noted that it is proposed to build a "block on flat room within the steel shed". It is stated that this room will have a solid door and concrete roof which will further reduce noise from the power hose pumps and vacuum cleaner by more than 50% to less than 40dB
- It is submitted that the application as revised has addressed the reasons for refusal in respect of noise issues and that the noise levels from the proposed development would be no more than those already produced from within O'Shea's Garage.
- It is further submitted that the site is zoned town centre and that the hours of operation would be 09.00-18.00, Mon-Sat. only, and the applicant would be happy to accept a condition to this effect.

- Letter from owner of O'Shea's Garage stating that he has purchased the residential properties to the east since the previous application was lodged (05/204422).

3.6. P.A response to FI is contained in the second report of the Area Planner (15/03/18). It was considered that the FI response did not satisfactorily address the issues raised by the P.A. it was stated that the reasons for refusal of the previous decision (05/204422) had not been addressed and that furthermore, there was concern that inadequate provision had been made for the parking of customer cars on site prior to and following a car wash. Refusal was therefore recommended.

4.0 Planning History

05/204422 – P.A. Refused permission for retention of a car wash and valeting facility on this site (same location). Reason for refusal was based on detriment to residential amenities of adjoining residential properties by reason of noise nuisance and disturbance

5.0 Policy Context

5.1. Development Plan

Killarney Town Development Plan 2009-2015

The site is located in an area zoned as Town Centre Facilities. The objective for this zone is to provide for and improve the development of the Town Centre. This aim covers the central area and includes a wide and varied range of land uses.

I note that there is a Draft Killarney Municipal District Local Area Plan 2018-2024, which has not yet been adopted.

5.2. Natural Heritage Designations

The Killarney National Park, McGillicuddy Reeks and Caragh River Catchment SAC and the Killarney National Park SPA are located approx. 500m from the site.

6.0 The Appeal

6.1. Grounds of Appeal

The first-party appeal was submitted by Coghlan Consulting Engineers, on behalf of the applicant. The main points raised may be summarised as follows:

- Noise nuisance – The potential noise sources, (car wash pump and vacuum), would be housed within a sound proof room, which in turn would be within the proposed shed. The noise levels that would emanate from this room are stated to be less than 40dB(A). These noise levels are well below the minimum daytime recommended levels set out in the Killarney Town Development Plan (45-55dB(A)).
- Appropriateness of use – the site is zoned Town Centre Facilities and the proposed use is appropriate within this zone and within the mixed-use area. The residential properties opposite have been converted into commercial use and the owner of the site, who also owns O'Shea's Garage, has purchased all three of the adjoining residential properties to the east.
- Car parking and turning area – Car parking is not required for customers as it is a drive-through facility and customers will be required to wait with their cars at all times. The proposed turning area is in compliance with the guidelines set down in both D.M.U.R.S and the Site Development Works for Housing Areas (Fig. 2 Residential turning areas).
- Traffic hazard – the proposal would not give rise to a traffic hazard as there are existing gates, which would be used. These gates and the palisade fence are transparent and there are adequate sight lines at the entrance. The P.A. has not specified what aspect of the development would give rise to a traffic hazard. However, the applicant would be agreeable to a Road Safety Audit, should the Board consider this to be necessary.
- Values of residential properties – The owner of the site, who has consented to the application and has written in support of the applicant, has no concerns regarding any depreciation of value of the houses to the east, which are also in his ownership.

- Reasons for refusal 204422 not addressed – it is submitted that these reasons have been addressed by the proposed application, as revised.

6.2. Planning Authority Response to grounds of appeal

The P.A. has not responded to the grounds of appeal.

7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows:-

- Principle of development;
- Residential amenity impact in terms of noise from proposed use; and
- Traffic safety and convenience.

7.2. Principle of development

7.2.1 The location of the site in a mixed-use area, on a main road at the edge of the town centre retail area, and on lands zoned for Town Centre Facilities which have an established commercial use, means that the development of the site for commercial purposes is considered to be appropriate in principle. However, I note that the Town Centre Zone (12.3.5) lists a number of Not Permitted uses which include petrol stations, repair garages and car showrooms. Although a car wash is not specifically mentioned, it is associated with such uses.

7.2.2 The Plan refers to Non-conforming Uses at 12.3.16, and states that extensions/improvements to such uses may be permitted provided that the proposed development would not result in serious injury to the amenities of the area. Given the residential nature of the lands adjoining the site to the east, it is considered important that the proposed use does not result in a nuisance or serious injury to the residential amenities of these properties, irrespective of who owns them.

7.3. Residential Amenity of occupiers of adjoining sites

7.3.1. The closest property is a 2-storey dwelling house. I note that there are no windows in the side elevation and that there is a tall masonry wall on the boundary. The applicant has advised that the car wash facility would be located c. 8m from the common boundary and that the noise generating equipment would be stored within a

sound proof room within the shed, when in use. The noise level emissions from the shed are estimated to be approx. 40dB(A), which it is stated would be well within the noise limits recommended in the Development Plan for the area.

7.3.2. A full noise assessment does not appear to have been carried out, nor is there any information on the established baseline or background noise levels. The predicted noise levels at the nearest noise sensitive location have not been established either. Notwithstanding this, it is considered that, should the Board be minded to grant permission, it would be reasonable to attach a condition restricting noise levels to those recommended in the Killarney Town Development Plan (12.51). These set an upper limit of 55dB(A) daytime and 45dB(A) night time, with night time defined as 22.00 hours – 0800 hours. Given that it is proposed that the use would operate during normal business hours only (0900 - 1800, Mon – Sat), it is considered that a further condition restricting the hours as proposed would be appropriate.

7.3.3. The P.A. had suggested in the FI request that consideration be given to the relocation of the proposed car wash facility. However, the owner of the site declined to do so on the basis that the larger hardcore area is used for the delivery of large articulated trucks.

7.3.4. The appellant also noted that the third party objection received by the P.A. was submitted by a person with an address in Waterford, with no clear connection to the site.

7.4 Car parking provision and traffic hazard

7.4.1 The applicant has indicated a stacking area for four cars on the submitted plans. It is stated that the car wash facility, which is a hand wash, will require customers to stay with their cars at all times and should a mini valet be required, this would take just 15 minutes. The grounds of appeal also include a sketch showing a turning circle within the site for cars. The intention seems to be that the car to be washed would leave the top of the queue and turn before it enters the wash area and could then drive out of the site in forward gear. It is considered that the site is large enough to accommodate the car wash and valet facility without the need to reverse onto the road. Provided that the facility is operated as stated in the submissions, it is considered that the proposed development is unlikely to result in overspill of cars onto the road and would not be likely to give rise to a traffic hazard.

7.4.2 Notwithstanding the above, it is considered that the Board could require the submission of a Road Safety Audit given the location of the site on a main road within the town centre. This could be addressed by means of an appropriately worded condition, should the Board be minded to grant permission.

7.5 Environmental Impact Assessment

7.5.1 Having regard to the nature and scale of the development to be retained there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.6 Appropriate Assessment

7.6.1 The site is located approximately 500m from two Natura 2000 sites, namely, the Killarney National Park, McGillicuddy Reeks and Caragh River Catchment SAC (Site code 000365) and the Killarney National Park SPA (Site code 004038). Given the distances involved, that the commercial use of the site is an established one and as the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

8.1. It is recommended that planning permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Killarney Town Development Plan 2009-2015 (as extended), to the nature and scale of the development and to the existing pattern of development in this central urban location, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, or of property in the vicinity and 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 19th day of February 2018 and the 20th day of February 2018, and by the further plans and particulars received by An Bord Pleanála on the 11th day of April 2018, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to a hand car wash and valet service as specified in the lodged documentation, unless otherwise authorised by a prior grant of planning permission.

Reason: In the interests of the residential amenity.

3. The noise levels from the proposed development shall not exceed 55dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive location to the east between 0800 and 2000 hours Monday to Friday and shall not exceed 45dB(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: In the interests of the residential amenities of the occupiers of the adjacent residential property.

4. The car wash/valet service shall only operate between 0900 hours and 1800 hours on Monday to Saturday (excluding public holidays) and shall not operate on Sundays.

Reason: In the interests of the residential amenity.

5. No advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on any building or within the curtilage of the site unless authorised by a further grant of permission.

Reason: In the interests of the visual amenities of the area.

6. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Mary Kennelly
Senior Planning Inspector

26th September 2018