



An
Bord
Pleanála

Inspector's Report ABP-301440-18

Development	(Site A) Demolish part of Retail Warehouse and replace and extend, (Site B) Storage facility, and car parking and ancillary works.
Location	Link Road, Portarlinton, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	17464
Applicant(s)	John Fletcher Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	First Party
Appellant(s)	John Fletcher Ltd.
Observer(s)	None
Date of Site Inspection	5 th July 2018
Inspector	Ciara Kellett

1.0 Site Location and Description

- 1.1. The appeal site is located off the Link Road in the centre of Portarlington, Co. Laois. The site is located to the south-east of Market Square and south and west of the River Barrow.
- 1.2. It comprises two parcels of land on either side of the Link Road: on the west (Site A), and on the east (Site B). The site on the west side is accessed from the Main Street as well as the Link Road. It currently houses the John Fletcher Ltd. Hardware and Furniture Store, as well as a vacant two storey apartment block to the rear of a betting shop, and a single storey apartment. Access from the Main Street is for pedestrians only, and vehicular access is provided from the Link Road. The outdoor storage area is on the Link Road side, and is where building materials and other bulky goods are stored.
- 1.3. The site on the east side of the Link Road is triangular in shape and is currently vacant.
- 1.4. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. It is proposed to develop both parcels of land on either side of the Link Road. It is proposed to demolish part of the existing retail warehouse over ground and first floor on the west side of the Link Road (Site A), demolish the two storey vacant apartment block and single storey apartment within the curtilage of a Protected Structure. It is proposed to replace the demolished floor space with a larger retail warehouse extension measuring 2,490sq.m in area over ground and first floor level. The net increase in floor area will be 414sq.m. The new floor area will include a dedicated storage area at ground floor and ancillary office space at first floor. It is also proposed to provide 30 car park spaces, signage, boundary treatment and a new vehicular entrance and to block up the existing vehicular entrance.
- 2.2. It is proposed to provide a new ancillary storage facility of 784sq.m on the site across the road (Site B), as well as 37 car parking spaces, signage and boundary treatment.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 23 conditions. The applicant is appealing Condition no. 21(a) and (b). Condition 21(a) requires a Development Contribution of €111,316, and Condition 21(b) requires a Car Park shortfall contribution of €14,500.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority's decision. There are two Reports on the file because Further Information was requested. In summary, they include:

- Sites are zoned 'Town Centre' in the Portarlington Local Area Plan. Retail Warehouses are permissible in this zoning. Proposal is a redevelopment of a brownfield site and will help to sustain the vitality and viability of the town centre.
- Majority of Site B on the east side is located on lands designated Flood Zone A and lies adjacent to the River Barrow and Nore SAC.
- A Retail Impact Statement is not required as the proposal is for an extension of an established retail warehouse, and where retail is expressly encouraged.
- While Site A building is large, the proposed landscaping combined with the removal of external storage and derelict buildings will improve the visual appearance and may encourage other public realm improvements.
- Design is consistent with adjacent Fire Station.
- Note applicant has submitted an Architectural Heritage Assessment which concludes that proposal will have a positive impact on the streetscape.
- Notes third parties raise concerns with impact of raising the levels of section of Site B. Appropriate to request Further Information to confirm contiguous

elevation and to submit elevational drawing. Roads Section seek Further Information.

- Total of 68 car park spaces proposed. Consider this to be a shortfall of 35 spaces. Considers this acceptable subject to a levy.
- Satisfied with Flood Risk Assessment.
- Following the response to the request for Further Information, which included a revised car parking shortfall of 29 spaces, Planner recommends that permission should be granted.

The decision was in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

- **Roads Design:** Recommends Further Information. No objection subject to conditions.
- **Eastern Area Office:** No objections subject to conditions

3.3. Prescribed Bodies

- **Irish Water:** Recommends Further Information. No objection subject to conditions.

3.4. Third Party Observations

There were two third party submissions objecting to signage, impact on privacy, parking spaces, and future use of Site C, and footpaths not yet completed.

4.0 Planning History

Site A (most recent):

- **ABP Ref. PL11.220894, LCC Reg. Ref.06/292:** Permission was granted by the Board in April 2007 following the Council's decision to refuse permission for demolition of apartments, refurbishment/extension of structures comprising mixed use development, 10 apartments and works (Protected Structure). This permission was never acted upon.

Site B (most recent)

- **LCC Reg. Ref. 15/117:** Permission was refused for 4 reasons in October 2015 for the development of a warehouse. Reasons included that a Wholesale Warehouse is not normally acceptable in Town Centre zoned lands, does not adequately address the Barrow, design, scale and massing not acceptable and Flood Risk assessment not in compliance with Policy FRP1.
- **LCC Reg. Ref. 06/603:** Permission was refused for 4 reasons in June 2006 for development of 39 apartments. Reasons included Flood Risk, proposal premature, and overdevelopment.
- **LCC Reg. Ref. 04/787:** Permission was granted in October 2004 for the development of 20 apartments. This was never acted upon.

5.0 Policy Context

5.1. Portarlington Local Area Plan 2012 – 2018

- 5.1.1. The site is located within the Town Centre zoning. Retail Warehousing is acceptable within this zoning.
- 5.1.2. Section 17 refers to Development Management Standards. Table 11 sets out the car parking standards for areas other than residential: Large Stores > 1,000sq.m require 1 space per 30sq.m; Warehousing requires 1 space per 100sq.m; and offices require 1 space per 23sq.m.

5.2. Draft Joint Portarlington Local Area Plan 2018 - 2024

- 5.2.1. The Plan is still at Draft Stage. However, the site is proposed for land use zoning as 'Town Centre' and Retail Warehousing continues to be a use which is normally acceptable.

5.3. Laois County Council Development Plan 2017 -2023

- 5.3.1. Table 18 of Chapter 6 refers to Car Parking. Retail Warehousing is specifically identified as requiring 1 space per 36sq.m gross floor space.

5.4. **Development Contribution Scheme 2017 – 2023**

5.4.1. Section 11 of the Development Contribution Scheme states that a shortfall in parking in town centre locations is €500 per space shortfall.

5.4.2. Section 13 refers to Reductions and **Section 13.2** refers specifically to Town Centre Rejuvenation. It states:

A 33% reduction shall apply in the town centre primary/town centre zoned areas of Portlaoise, Portarlington, Graiguecullen, and Mountmellick as defined in the Laois County Development Plan 2017–2023 and Local Area Plans respectively and in the village and town centre zoned areas for each town and village as defined in Volume 2 of the County Development Plan 2017-2023.

A 50% reduction [none in the current scheme] shall apply in the case of provision of residential development over ground floor commercial space in the town centre primary and town centre zoned areas of Portlaoise, Portarlington, Graiguecullen and Mountmellick as defined in the Laois County Development Plan 2017–2023 and Local Area Plans respectively and in the town and village centre zoned areas for each town and village as defined in Volume 2 of the County Development Plan 2017-2023.

13.3 Clarification

Double credits shall not apply. Where on the surface it appears a proposed development may qualify for one or more exemptions under this section, only one [as determined by the Council] shall actually apply.

5.5. **Natural Heritage Designations**

The site is adjacent to the River Barrow and River Nore SAC (Site Code 002162).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

One first party appeal has been submitted against Condition no.21, the Development Contribution. In summary, it includes:

- Development Contribution Scheme has been incorrectly applied in this instance.
- Section 13.2 of the Development Contribution Scheme allows for a 33% reduction in development contributions to developments on town centre zoned lands, which is consistent with Ministerial Guidelines 'Development Contributions: Guidelines for Planning Authorities, 2013'.
- Consider only test to be met is that the development is located in town centre zoned lands.
- Confirm that the proposal is located in town centre zoned lands as highlighted on attached map.
- A 33% reduction would result in a contribution of €74,581.72 and request the Board to amend accordingly.
- With respect to the parking contribution of €14,500, it is accepted that there is a car park shortfall based on Development Plan standards.
- Submit that the Council have not taken into consideration points made by the applicant in the applicant's Planning report.
 - Site is located in the Town Centre where public transport is available and where retail development is encouraged.
 - Retail Warehouse parking standards are aimed at out of town developments where space is not an issue.
 - Proposal involves the upgrade of an established retail development.
 - There are on-street car parking spaces
 - There is currently no car parking on Site A, so the new parking is a significant planning gain.
- Submits that taking these points into consideration, it is contended that shortfall in development plan requirements is reasonable and no levy should apply.

6.2. **Planning Authority Response**

The Planning Authority responded to the appeal. In summary it states:

- Development contribution was calculated in accordance with the Laois County Council Development Contribution Scheme 2017 – 2023 which was applicable at the time.
- Notes section 13.2 provides for reductions of 33% in town centres.
- Notes the site is zoned Town Centre and that the Development Contribution can be adjusted accordingly to €74,581.72.

The car park shortfall is not addressed.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. The first party has appealed Condition no.21 only. Condition no.21(a) requires the developer to pay a Development Contribution of €111,316 and condition no.21(b) requires the developer to pay a Development Contribution of €14,500 for the shortfall in car parking spaces to the Planning Authority. The first party has appealed the condition under Section 48(10)(b) of the Planning and Development Act 2000, as amended. Section 48(10)(c) of the Planning and Development Act 2000, states that where an appeal is brought in accordance with Section 48(10)(b) and no other appeal of the decision is brought by any other person, the authority may make the grant of permission as soon as may be, after the expiration of the period for making an appeal. The appeal is therefore confined to the consideration of whether or not the terms of the Laois County Council Development Contribution Scheme 2017 – 2023 were properly applied in this instance.

7.2. **Condition no.21(a)**

- 7.2.1. It is accepted by the Council that the Condition no.21(a), as stated on the Notification to Grant permission, did not apply the 33% reduction allowance for Town Centre zoned sites. The Council submitted a response to the appeal agreeing that the development contribution can be adjusted accordingly.

7.2.2. Therefore, I am of the opinion that the amount specified in Condition no.21(a) should be amended to €74,581.72.

7.3. **Condition no.21(b)**

7.3.1. Condition no.21(b) requires the payment of €14,500 in lieu of the shortfall of 29 car park spaces. The application proposes a total of 68 spaces as shown on the drawings (note 67 referred to in the public notices and 62 referred to in the applicant's Planning Report).

7.3.2. The Council's Second Planner's Report following the response to the request for Further Information provides a breakdown as follows:

Site A:

Retail and Store: 1951sq.m (1686sq.m + 265sq.m) @ 1 per 30sq.m = 65 spaces

Office: 539sq.m @ 1 per 23sq.m = 23 spaces

Site B:

Storage: 784sq.m @ 1 per 100sq.m = 8 spaces

Total Requirement: 96 spaces required.

Amount proposed = 67

Shortfall = 29 spaces @ €500 per space = €14,500.

7.3.3. The applicant accepts that there is a shortfall in the number of spaces, but considers that there should be no levy because of reasons including: the town centre based location; retail warehouse parking standards are based on out of town developments; the established nature of the business; and, the fact that new parking on Site A is a planning gain.

7.3.4. Having regard to the Development Contribution Scheme, there is no exemption permitted due to the town centre location with respect to parking. The Scheme provides for a significant reduction in the fee required for the shortfall per space because of the Town Centre location. I am of the opinion therefore, that contributions for parking shortfall must be paid by the applicant.

- 7.3.5. However, there would appear to be a question over the number of spaces provided and the number of spaces required, and there are different figures used throughout the documentation on file.
- 7.3.6. From my review of the drawings, and in particular Drawing 16203/003 Rev F submitted as part of the response to the Further Information request on the 23rd February 2018, there appears to be 68 spaces provided.
- 7.3.7. Based on the car park requirements as noted in the Council's Second Planner's Report, there is a shortfall of 29. In my opinion this could be reduced to 28 (i.e. 96 – 68 = 28). This would reduce the contribution to €14,000.
- 7.3.8. However, having regard to the different numbers used throughout the documentation on file, I consider that the figure to be assessed should remain at 67 as per the second Planner's Report and more importantly the number quoted on the public notices. The Board may wish to amend the figure, but I am of the opinion that the development contribution should remain at 29 spaces @ €500 per space shortfall, resulting in a contribution of €14,500.

8.0 Recommendation

- (1) I recommend that the Board directs the Council under Section 48 of the Planning and Development Act 2000, as amended, to **AMEND** Condition no.21(a) as follows:

Condition 21(a):

This development is commercial:-

Commercial		Floor Area	Total per Contribution
Roads	€22.67	3274sq.m	€74,221.58
Amenity	€11.33	3274sq.m	€37,094.42
Total Development Contributions before reduction	€34	3,274sq.m	€111,316.00
Total Development Contributions after			€74,581.72

reduction			
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(2) I recommend that the Board directs the Council under Section 48 of the Planning and Development Act 2000, as amended, to **RETAIN** Condition no.21(b).

9.0 Reasons and Considerations

(1) Having regard to the Laois County Council Development Contribution Scheme 2017 – 2023, and the information provided as part of the application and appeal, it is considered that there are reductions within the Scheme that would apply to the circumstances of this case, and that the development contributions required under condition number 21(a) of this permission are to be amended in respect of the subject development.

(2) Having regard to the Laois County Council Development Contribution Scheme 2017 – 2023, it is considered that there are no exemptions, reductions or waivers within the Scheme that would apply to the circumstances of this case, and that the development contributions required under condition number 21(b) of this permission are payable in respect of the subject development. It is therefore considered that the terms of the Scheme have been properly applied in this instance.

Ciara Kellett
Inspectorate

8th August 2018