



An  
Bord  
Pleanála

## inspector's Report ABP-302786-18

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<b>Development</b>	Removal of existing single storey glazed lean-to extension, construction of new single storey glazed extension, provision of new attached illuminated building signage at existing premises.
<b>Location</b>	Ashley Ford, 305-309, North Circular Road, Dublin 7.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3625/18
<b>Applicant(s)</b>	Kitale Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	David and Ciara Burke.
<b>Observer(s)</b>	Transport Infrastructure Ireland
<b>Date of Site Inspection</b>	2 February, 2019
<b>Inspector</b>	Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the site of Ashley Motors, a Ford dealership located on the northern side of the North Circular Road immediately to the west of the LUAS line at Cabra. The site has a stated area of 3,405 sq. metres and is laid out as a car sales and repair / service centre. There is an existing single storey car showroom located on the eastern side of the site and to the rear of the site there is a single storey vehicle repair / service building.
- 1.2. The existing operation on site is stated to comprise a total of 1,005 sq. metres of floor space, evenly split between the showroom and the vehicle repair building.
- 1.3. Surface car parking for vehicles is provided to the front and interior of the site with vehicle display to the front of the building line, sales vehicles behind and staff and customer parking provided for at the rear of the site. There is a security fence with gates that runs west from the south west corner of the showroom building and secures the interior of the site outside business hours.
- 1.4. The existing showroom building is set back c.16 metres from the road edge and is on the eastern side of the site adjacent to the boundary wall to what is now the LUAS Broombridge line.
- 1.5. The site is bounded to the east by the rail line and the Cabra LUAS stop located in a cutting at a lower level to the site. The pedestrian access to the Cabra stop is located immediately at the south east corner of the site. To the south, the site has a frontage of c.52 metres to the North Circular Road and to the west, the site adjoins a site that is occupied by a large detached three storey house that is in a semi derelict condition and is included on the record of protected structures. The boundary between the appeal site and this structure comprises a wall of varying height, topped in the rear section by a fence and such that there is limited inter visibility between the two sites. There is a significant extent of undeveloped lands to the rear of Stone Villa and a shared boundary of c.95 metres between the two sites.

## 2.0 Proposed Development

- 2.1. The proposed development comprises a number of elements as follows:
- 2.2. The removal of an existing single storey glazed lead to extension to the side and front of the vehicle showroom and its replacement with a new single storey glazed extension to the side and front of the same building. The old extension for demolition has a stated floor area of 87 sq. metres and the proposed replacement structure has a floor area of 136 sq. metres.
- 2.3. New entrances to the showroom building are proposed to be provided with 2 no. new entrances to the side elevation, 1 no. entrance to the rear elevation and 1 no. entrance to the front.
- 2.4. Signage is proposed to be provided to the front and side of the new extension with 3 no. new signage panels to the side above the glazing and 2 no. new signage panels to the front also above the glazing. The signage is proposed to be LED lit.
- 2.5. The existing small security hut located towards the front (southern) end of the site is proposed to be demolished and this space will be used for the provision of vehicle display for an additional two vehicles.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 10 no. conditions. The most significant of these conditions are considered to be as follows:

Condition No.3 requires the payment of a Supplementary development contribution in accordance with the s.49 LUAS Cross City scheme.

Condition No.4 requires the submission of details of the propose signage for agreement.

Condition No.5 requires that the developer shall contact TII in advance of works to ascertain their requirements given the proximity to the line.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The report of the planning officer notes the residential zoning of the site, its location relative to adjoining sites and properties and the third party objection received. Form of new development noted and stated that it is not considered to impact on the residential or visual amenities of the area. Noted that the adjoining site contains a protected structure, however considered that the appeal site does not form part of the curtilage of this protected structure and will not therefore have a negative impact on the setting of this protected structure. Signage location is not considered to be an issue, however the detail is required to be submitted for agreement to avoid a negative impact on visual amenity. The demolition of the existing security hut and accommodation of space for two additional car displays is not considered such as to impact on deliveries or traffic. A grant of permission consistent with the Notification of Decision which issued is recommended.

### 3.2.2. Other Technical Reports

Drainage – No objection.

## 3.3. Prescribed Bodies

The application was referred to the NTA, Irish Rail and Irish Water. No response to these referrals was received.

Transport Infrastructure Ireland – response states that there is no objection subject to conditions including ensuring that all works meet the requirements of TII for developments in close proximity to the LUAS power system. S.49 development contribution required. Construction / demolition method statement required.

## 3.4. Third Party Observations

A third party submission from the residents / owners of 289 North Circular Road. Issues raised relate to the unsafe delivery of vehicles to the site, the proximity to 297 North Circular Road which is a protected structure and in the same ownership as the application site, the provision of additional car parking on the site and the capacity to

accommodate these vehicles safely and the visual impact of the proposed signage and the poor quality existing boundary treatment to the site.

## 4.0 Planning History

The following planning history is referred to on the appeal file:

### ***Appeal Site***

Dublin City Council Ref. 2969/98 – application to create 2 no. revised vehicular entrances to the garage site and car park, refurbishment of existing workshop and showroom, including mezzanine floors, security hut, gates and signage. Application the subject of further information and no response ever received so no decision issued.

### ***Adjoining Site***

Dublin City Council Ref. 4313/15; An Bord Pleanála Ref. PL29N.247378 – Permission granted by the Planning Authority and decision upheld on appeal for the extension and alteration of ‘Stone Villa’ (a protected structure) to provide 6 no. apartments and the construction of 6 no. houses to the rear of No.297 North Circular Road.

## 5.0 Policy Context

### 5.1. Development Plan

The appeal site is located on lands that are zoned Objective Z1, ‘*to protect provide for and improve residential amenities*’ under the provisions of the Dublin City Development Plan.

The existing use of the site could be considered to be a non-conforming use on the residentially zoned site.

The adjoining site to the west contains a protected structure ‘Stone Villa’ on the site of No.297 North Circular Road.

## 5.2. Natural Heritage Designations

The site is not located in or close to any European site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The following is a summary of the main issues raised in the third party grounds of appeal submitted by the residents of the dwelling located immediately to the west of Stone Villa to the west of the site:

- That the site is located on residentially zoned lands and that motor showrooms are not listed as a permissible or open for consideration use.
- That the proposed extension, additional parking and signage would adversely affect the amenities of properties in the vicinity and so would not meet the test for the extension of an existing non-conforming use.
- That the proposed development would be contrary to the proper planning and sustainable development of the area due to increasing the hazard for cyclists and pedestrians accessing the LUAS.
- That the method of unloading cars at the site is on road and this blocks the cycle path and most of the road. This practice is dangerous particularly given the presence of pedestrians accessing the LUAS. No further details regarding deliveries have been submitted with the application.
- Submitted that there is currently space on the site to accept deliveries however this may not be the case post development. It is submitted that the issue of deliveries is not a garda traffic issue but a planning issue.
- Considered that the site of the car showroom is part of the attendant grounds of the adjoining protected structure. It is not appropriate for an extension to be granted without consideration of it's impact on that protected structure.

## 6.2. Applicant Response

There is no record of any response received from the first party.

## 6.3. Planning Authority Response

There is no response to the grounds of appeal from the Planning Authority.

## 6.4. Observations

An observation has been received from Transport Infrastructure Ireland. The following is a summary of the main issues raised in this submission:

- That a demolition and / construction method statement would be submitted for the written agreement of the planning authority prior to the commencement of development.
- That the developer will be required to apply for a works permit from the LUAS operator.
- TII Code of Practice to be complied with.
- That the development falls within the area of the adopted s.49 development contribution scheme for LUAS cross city.

## 6.5. Further Circulations

Details of the application were referred by the Board to NPWS, An Taisce, Failte Ireland, the Heritage Council and An Chomhairle Ealaion. No responses to these referrals were received.

## 7.0 Assessment

7.1. The following are considered to be the main issue in the assessment of this case:

- Principle of Development / Land Use Zoning,
- Design and Impact on Visual and Residential Amenity,
- Impact on Adjoining Protected Structure,
- Traffic and Related Issues,
- Other Issues / Conclusions,
- Appropriate Assessment,
- EIA.

### 7.2. Principle of Development / Land Use Zoning,

7.2.1. The appeal site is located on lands that are zoned Objective Z1, '*to protect, provide for and improve residential amenities*' under the provisions of the Dublin City Development Plan, 2016-2022. The use of the site for vehicles sales and repair is a long running non-conforming use on the site with a car sales business having operated from this location for a significant number of years.

7.2.2. A car sales use is not identified as being a permissible or open for consideration use on lands zoned Objective Z1. It is noted however that a petrol station and light industry uses are both identified as open for consideration. The proposed development, incorporating car sales showroom space, is not either a permissible or open for consideration use but can in my opinion be considered to comprise a non-conforming use being a long established activity on the site.

7.2.3. Paragraph 14.6 of the Dublin City Development Plan sets out the policy relating to non-conforming uses. The policy states that when extensions to or improvements of premises accommodating such non-conforming uses are proposed, each shall be considered on their merits and permission may be granted where the proposed development '*does not adversely affect the amenities of property in the vicinity and does not prejudice the proper planning and sustainable development of the area.*'



7.2.4. The impact of the proposed extension on the amenities of the area, both residential and visual, and potential impacts on proper planning and sustainable development are considered in the sections below.

### 7.3. **Design and Impact on Visual and Residential Amenity**

7.3.1. The proposed extension to the showroom building follows the same basic format as the existing lean to extension that is proposed for demolition. The existing extension is L shaped and projects c.2.8 metres beyond the original line of the showroom building to the south and to the west. The proposed replacement extension would have similar dimensions to the south and be slightly deeper to the west at c.3.2 metres. The length of the extension on the western side of the building is proposed to be increased from the existing c.23 metres to a proposed 32 metres. The basic form of the proposed extension in terms of its location and dimensions is therefore very similar to the existing structure proposed for demolition and the additional floorspace proposed is modest at c.49 sq. metres.

7.3.2. The height of the building is proposed to be slightly increased to 6.25 metres to parapet height. The proposed design is more modern in appearance than the existing building with a uniform parapet height and alterations to the existing roof structure behind to achieve this clean parapet line. The basic design and scale of the proposed extension is not considered to be excessive or to be such that it would have a significant impact on the visual amenities of the area. In this regard, it is noted that the front elevation of the proposed showroom would be set back c.16 metres from the road edge and that clear views of the showroom are only available from the west as the building is largely screened to the east by the boundary to the LUAS line and site boundary.

7.3.3. The relationship of the site to surrounding residential properties is such that there are houses directly opposite the site on the north circular road. The scale and nature of the proposed extension and changes proposed relative to the existing appearance are, in my opinion, such that the residential amenities of these properties would not be significantly adversely impacted by the proposed development.

7.3.4. Signage to the development is proposed to comprise news signs above the glazing and mounted on the 2 metre high cladding proposed above the glazing. Three signs are proposed to the west facing side elevation and two to the south facing front elevation. The size of signage is proposed to range between 2 and 8 sq. metres and to be internally illuminated LED signage and the form is a mixture of car branding (Seat and Ford) and two designs of Ashley Motors signs. In principle, I do not consider that the scale of signage proposed is excessive given the location, the set back from the road and the fact that it will replace existing signage, albeit signage that is significantly smaller in scale. I note that Condition No.4 attached to the Notification of Decision issued by the Planning Authority requires the submission of details of the propose signage for agreement prior to the commencement of development. In the event of a grant of permission, it is considered appropriate that details of the materials and lighting of the proposed signage would be submitted for the written agreement of the Planning Authority to ensure that the detailed design does not have an excessively prominent visual impact. In the event of a grant of permission it is also considered appropriate that the provision of advertising or stickers to the glazing or such that they are visible through the glazing would be restricted by way of condition.

#### **7.4. Impact on Adjoining Protected Structure**

7.4.1. The adjoining site to the west contains a protected structure 'Stone Villa' on the site of No.297 North Circular Road. This site is indicated as being in the same ownership as the appeal site. There is a significant separation distance between the showroom building on the appeal site and the protected structure with c.32.5 metres separation between the showroom and the western site boundary and a further c.9.5 metres to the protected structure.

7.4.2. The third party appellants contend that the site of the car showroom is part of the attendant grounds of the adjoining protected structure and state that is not appropriate for an extension to be granted without consideration of the its impact on that protected structure. From the information available on file it is not clear as to what was the exact historical relationship between the site of the protected structure and the appeal / garage site. There may originally have been a house or houses on

the garage site, or it is feasible that the garage site comprising a parcel of land to the east of Stone Villa and bounded to the east by the railway line, could have originally been part of the grounds of the 'Stone Villa' site. Even if the appeal site was originally part of the grounds of 'Stone Villa', the fact is that it has long since been separated from the site of the protected structure. The works proposed relate to relatively minor extensions / alterations to a long standing use and the separation distance between the proposed extension and the protected structure is significant at c.42 metres. There is also an existing boundary between the two properties and limited inter visibility between the two sites. On this basis, it is my opinion that the proposed development would not have any material impact on the character or setting of the protected structure at 'Stone Villa'.

7.4.3. It is also worth noting the fact that under planning Ref. Dublin City Council Ref. 4313/15; An Bord Pleanála Ref. PL29N.247378, permission was granted by the Planning Authority and the Board for the extension and alteration of Stone Villa (a protected structure) to provide 6 no. apartments and the construction of 6 no. houses to the rear of No.297 North Circular Road. These works would be within the immediate curtilage of the protected structure and of a significantly greater scale than those the subject of the current appeal, and were not deemed to be such as to impact negatively on the character and setting of the protected structure.

7.4.4. Overall therefore, I do not consider that the proposed development would have any adverse impacts on the character or setting of the adjoining protected structure located to the west of the appeal site.

## **7.5. Traffic and Related Issues**

7.5.1. The third party appellants contend that the proposed development would be contrary to the proper planning and sustainable development of the area due to increasing the hazard for cyclists and pedestrians accessing the LUAS. The appellants specifically highlight concerns regarding the existing method of unloading cars at the site is on the public road and state that this blocks the cycle path and most of the road. It is contended that this practice is dangerous particularly given the presence of pedestrians accessing the LUAS.

- 7.5.2. No details regarding deliveries have been submitted with the application and the issues raised have not been responded to as there is no first party response to the grounds of appeal on site. I note that the third party appellants contend that there is currently space on the site to accept deliveries and that this may not be the case post development. I also note the statement in the third party appeal that the issue of deliveries is not a garda traffic issue (as stated in the report of the Planning Officer) but a planning issue.
- 7.5.3. I agree with the third party that the issue of delivery traffic to the site is a planning issue and that it would be preferable that such loading and unloading operations would be undertaken within the site boundaries. In stating this, I note the fact that the site layout as currently presented clearly does not provide for the space required for a car transporter within the site. The area to the front of the site is taken up with delineated car parking spaces and the existing site layout and access from the public road would not provide for access for such a vehicle. In my opinion, regard also has to be had to the relatively minor nature of the proposed development. The demolition of the existing security hut would provide for an addition 2 no. outside display spaces. The impact of the showroom extension and internal changes in terms of additional display space are not clear as there is no existing showroom layout drawing. From an inspection of the site, it would appear that there would be some additional internal display space, however the extent of such additional area would be relatively minor. I note the concerns expressed with regard to pedestrian safety for persons accessing the LUAS stop. Access to the LUAS is facilitated by a pedestrian crossing that is located at the eastern end of the site frontage and which provides safe crossing of the road for pedestrians in the vicinity of the LUAS stop.
- 7.5.4. Overall therefore, I do not consider that the proposed works are such that they would result in a significant intensification of car sales activity at the site or be such that they could reasonably be considered to impact materially on the existing delivery access arrangements to the site.
- 7.5.5. I note the fact that the site is located adjoining the LUAS line and the comments received from TII. The nature of the works are relatively minor and are generally proposed to be located at a remove from the immediate environs of the boundary with the LUAS line. Notwithstanding this, it is considered appropriate that in the event of a grant of permission that the developer would be required to comply with

the detailed requirements of TII as set out in the observation to the appeal. These requirements include the submission of a demolition and / construction method statement, that the developer will be required to apply for a works permit from the LUAS operator and that TII Code of Practice to be complied with in the development.

## **7.6. Other Issues / Conclusions**

- 7.6.1. I note that the development falls within the area of the adopted s.49 development contribution scheme for LUAS cross city. In the event of a grant of permission it is therefore recommended that a condition requiring the payment of a contribution in accordance with the provisions of the adopted scheme would be attached.
- 7.6.2. Having regard to the above assessment, it is my opinion that the nature, design and scale of the proposed development is such that it would not adversely affect the amenities of properties in the vicinity or be contrary to the proper planning and sustainable development of the area. It is therefore my opinion that the that the proposed development would meet the test for the extension of an existing non-conforming use as set out at paragraph 14.6 of the *Dublin City Development Plan, 2016-2022* and that it is appropriate that permission would be granted in this instance.

## **7.7. Appropriate Assessment**

- 7.7.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## **7.8. Environmental Impact Assessment**

- 7.8.1. Having regard to the scale of the proposed development, the nature of the uses proposed, the fact that it is proposed to be connected to the public water and drainage networks and lack of a clear pathway to European sites, 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.

## 8.0 Recommendation

8.1. Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions:

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area, to the existing use of the site and the scale and design of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development, would not seriously injure the amenities of the area or of property in the vicinity, would not adverse impact on the character or setting of the adjoining protected structure and would be acceptable in terms of traffic safety and convenience. The proposed development 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, 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. Water supply and drainage arrangements, including the disposal of surface water from the site, shall be in accordance with the detailed requirements of the Planning Authority.

**Reason:** In the interests of public health.

3. Prior to the commencement of development, the developer shall ascertain and comply with the requirements of Transport Infrastructure Ireland regarding works in the vicinity of the LUAS line.

**Reason:** In the interests of public safety and the operation of the LUAS light rail system. .

4. Prior to the commencement of development, the developer shall submit details of the proposed signage and the proposed cladding material above the glazing for the written agreement of the Planning Authority.

**Reason:** In the interests of visual amenity.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), no advertising signs (including any signs installed to be visible through the windows, advertising structures, canopies, flags or other projecting elements shall be displayed or erected on the building or within its curtilage, or attached to the glazing without a prior grant of permission.

**Reason:** In the interests of visual amenity.

6. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

7. The developer shall pay to the planning authority a financial contribution of €1,862.00 (one thousand eight hundred and sixty two euro) in respect of the LUAS Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

8. The developer shall pay to the planning authority a financial contribution of € 3,432.94 (three thousand four hundred and thirty two euro and 94 cent) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning



authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Stephen Kay**  
Planning Inspector

4 February, 2019