



An
Bord
Pleanála

Inspector's Report ABP 302891-18

Development	Change of use of existing retail unit to restaurant/café use.
Location	Manor West, Rathass, Tralee, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	18/208
Applicant	PSIC Investments Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellant	Patrick Henderson
Observer(s)	None
Date of Site Inspection	23/01/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The existing unit which has a stated floor area of 187 sq.m. is located within the Manor West Neighbourhood Centre, approx. 1.8km to the south-west of Tralee town centre. It is located to the south of the R875 in proximity to a roundabout to the north-west (junction with Killierisk Road). It is served by a number of access/egress points with two right turning lanes facilitating turning movements into the centre. There is also a pedestrian crossing in front of the centre. The road was noted to be heavily trafficked. A low block wall delineates the roadside/front boundary

The two storey neighbourhood centre consists of three blocks. The 1st to the south (rear) of the centre comprises a number of retail units and a restaurant. The 2nd is a MacDonalds restaurant with drive-thru to the east with the 3rd comprising a filling station with associated car wash and two retail units with offices over in the western portion of the site. The appeal site comprises the end unit in this block. A one way north-south traffic system currently operates along the western site boundary. The said boundary is delineated by a block wall. Semi-detached houses in Avondale Court back onto the site at this location with a further dwelling served by an access onto the said one way system in the north-western corner.

Although differentiated on the site layout plan there is no demarcation between the parking serving the neighbourhood centre and that serving MacDonalds restaurant save for signage in the latter reserving the said spaces for its use.

2.0 Proposed Development

The application was lodged with the planning authority on the 08/03/18 with further plans and details received 01/08/18 and 07/09/18 following a request for further information dated 01/05/18 and clarification of further information dated 28/08/18.

The proposal entails the change of use of a retail unit to a café/restaurant with a drive-thru facility. A serving booth is proposed in the side elevation.

Free standing and fixed signage in addition to signage/pre-ordering facilities on the route to the take-out booth are proposed.

The existing vehicular circulation is to be reversed to a south-north direction to facilitate the drive through facility with repositioning of parking spaces.

Car and light van turning and tracking details provided by way of further information.

It is anticipated that the sales transactions would be split 65% take out and 35% on premises.

By way of clarification of further information, line markings, stop signage, junction alignment and a footpath along the northern elevation of the subject unit and that adjacent are to put in place.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 17 conditions including:

Condition 3: Hours of operation between 0800 and 2000 only.

Condition 4: All parking spaces along the front boundary to be splayed in the direction of the one way system.

Condition 5: Exit point of one way system to be reduced to 3.5 metres in width and shall incorporate a footpath area for the existing ATM. Revised plans to be submitted.

Condition 6: Layout drawing with proposed road markings and signage to be submitted and to be in place prior to opening of the proposed development.

Condition 7: Replacement of existing speed ramps to Department of Transport, Traffic Management Guidelines standards.

Condition 9: Goods/materials not to be stored in the car parking areas.

Condition 16: Signage to be in accordance with details submitted 08/03/18.

Condition 17: Preclusion of additional signage save with the written approval of the Planning Authority.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report dated 30/04/18 recommends a request for further information on car parking and junction layout between the internal access road and the exit point of the car wash. The 2nd report dated 28/08/18 recommends clarification of further information following the 2nd Area Office's comments. The 3rd dated 03/10/18 following clarification of further information recommends a grant of permission subject to conditions.

3.2.2. Other Technical Reports

Area Office in a report dated 30/04/18 recommends further information with respect to carparking and junction layout between the internal access road and the exit point of the car wash. The 2nd report dated 28/08/18 following further information expresses concern about the projected increase in traffic movements and that the projected 65% of drive thru traffic needs to be assessed at the ingress and egress junctions from the regional road and along the internal layout. A 3rd report dated 02/10/18 following clarification of further information details certain requirements including reduction of exit point of one way system to 3.5 metres in width, layout drawing showing all road markings and signage and replacement of existing speed ramps.

Building Control in a report dated 23/03/18 has no objection. A Fire Safety and Disability Access Certificate would apply.

County Archaeologist has no objection.

Environmental Health Officer, HSE in a report dated 28/03/18 details conditions should permission be granted.

Kerry National Road Design Office in an email dated 29/03/18 has no observations.

3.3. Prescribed Bodies

Transport Infrastructure Ireland in a letter dated 28/03/18 has no observations.

3.4. Third Party Observations

An objection to the proposal received by the planning authority is on file for the Board's information. The issues raised are comparable to those in the 3rd Party appeal summarised in section 6.1 below.

4.0 Planning History

I am not aware of any previous applications on the site.

5.0 Policy Context

5.1. Development Plan

Tralee Town Development Plan 2009-2015 (as extended)

The site is within an area zoned Neighbourhood centre. Restaurants are open for consideration in such a zone.

The site is within Parking Zone C. In such zones 1 parking space per 10 sq.m. is required for restaurants.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The 3rd Party appeal against the planning authority's notification of decision to grant permission can be summarised as follows:

- The proposal is relying on the existing parking provision within the centre. There is a significant difference in the car parking requirements for café/restaurant uses and retail uses. The development plan requires 1 no. space per 20 sq.m. retail and 1 no. space per 10 sq.m. restaurant/café.

- The proposal fails to comply with the said car parking standards. Even if the sales transaction split of 65% drive thru and 35% on premises is considered reasonable there would be a requirement for a minimum of 7 no. spaces (35% of 19 spaces). There will be a net reduction of 4 spaces in the current complement of 76 no. parking spaces in the centre.
- The proposal will exacerbate the parking situation in the centre
- The proposed drive-thru element and re-routing of traffic is poorly laid out and is likely to lead to significant motorist confusion with potential danger to pedestrians. The proposal has not been designed in accordance with the principles for car park design as set out in section 12.28 of the development plan.
- The proposed layout is designed with vehicular movement through the site to access the drive thru as a key consideration. This is contrary to the Development Plan's neighbourhood centre concept which states that these areas should have better pedestrian and cycle access and avoid conflict between pedestrians and drivers.
- Pedestrians will have to walk across the car park and drive-thru route to access the restaurant/café. No crossings are proposed to allow for safe access. There are limited arrangements proposed for the safe movement of people between the café and the other units. These conflicting movements would give rise to a hazard.
- There is also potential conflict between cars using the drive-thru and those reversing out of the car park spaces and also the proximity to the existing vehicular access to the adjoining property.
- A Road Safety Audit should have accompanied the application.
- There is no dedicated servicing area or set down bays proposed for deliveries or collection of waste.
- Further information should have been sought on the expected traffic generation given the intensification of use that is proposed.

6.2. Applicant Response

None

6.3. Planning Authority Response

None

6.4. Observations

None

6.5. Section 131 Notice

The Department of Culture, Heritage and the Gaeltacht was invited to make a submission on the appeal. No response received.

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings;

- Principle of Change of Use
- Access and Parking
- Other Issues

7.1. Principle of Change of Use

The unit is within the Manor West neighbourhood centre with frontage onto the regional road. As noted in the covering letter to the application the neighbourhood centre was constructed in various phases commencing in 1997/98 with the subject retail units constructed in 1999/2000. From the details on file the unit has been vacant for a period.

As per section 11.8 of the current Tralee Town Development Plan the concept of neighbourhood centres was promoted and encouraged to facilitate ease of access to basic facilities by all sectors of society. The aim of the zone is to protect such

centres from inappropriate uses such as hot-food takeaways, office and comparison retailing. In such a zone a restaurant is open for consideration.

On the basis of the mix of uses within the centre, including retail and offices, I consider that the principle of such a café/restaurant use is acceptable.

7.2. Access and Parking

Although there is a differentiation between the extent of the neighbourhood centre and the site of MacDonalds Restaurant and drive thru on the site plans accompanying the application no such delineation is evident on the ground save for signage in the central parking area stating that the spaces are for patrons of the fast food outlet with vehicular and pedestrian circulation unimpeded between the two. There are a number of access/egress points to the centre with vehicular speeds noted to be low with no dedicated internal pedestrian facilities in terms of crossings etc.

As noted one way vehicular movements currently exist in a north-south direction along the western boundary of the site to the rear of the existing units with the area used for goods deliveries associated with the filling station and off licence and for parking. Vehicle speeds are low with ramps along the route. There is a vehicular access serving an adjoining dwelling with access onto the site in the north-western corner.

The proposal entails a take away element with a serving hatch and ordering facilities to be developed along the western end of the building. To facilitate same the circulation route in the vicinity is to be reversed allowing access from the south and exiting from the north. Car turning tracking has been provided by way of further information delineating both that for the existing car wash and the entrance to the drive thru. Whilst no detail is provided as to the anticipated patronage of the unit it is anticipated that the sales breakdown would be in favour of the drive thru facility at 65%.

Taken in the context of the prevailing situation in terms of movements within the neighbourhood centre I consider that the proposed access arrangements to be acceptable and subject to appropriate signage the drive-thru element can be accommodated without giving rise to the material concern with respect to either pedestrian or vehicular safety. In this context I note that the requirements of

condition 6 attached to the planning authority's notification of decision to grant permission requiring details of all road markings and signage within the entire centre prior to the opening of the proposed development. I consider that this is a reasonable requirement which would provide for greater clarity in terms of vehicular and pedestrian movements. I would also submit that there is no reason to suggest that the reversal of the vehicular flow would have any material difference in terms of the access serving the dwelling adjoining over that currently experienced.

In terms of parking I note that within the red line boundary of the neighbourhood centre (with the proposed café in place) 79 spaces are provided. This is stated to be a loss of 3 spaces over the existing situation (82 spaces). As noted there is a differentiation between the car parking for the neighbourhood centre and that for MacDonalds although there is no segregation noted on the ground. MacDonalds provides for in the region of 30 spaces.

As per the relevant map in the current town development the site is within Parking Zone C (suburban location) which requires 1 space per 10 sq.m. restaurant use. In its own right the proposal, with a floor area of 187 sq.m., would require 19 spaces. This is double the requirement for the previous retail use (9 spaces). Taking account of this previous use I submit that the shortfall arising from the change of use would be in the region of 10 spaces.

The development plan is silent on the issue of dual use or sharing of parking spaces. I consider that there is some leeway having regard to the mix of uses within the centre. I would suggest that would be a certain element of shared usage between the proposed development and the restaurant in the building to the south which would have its greatest demand in the evening time. I would also suggest that there may be linked trips to the centre with patrons accessing a number of the outlets in one visit. Coupled with the anticipated break down between the drive thru and in house receipts of 65% and 35% respectively, I consider that the reduction in the additional car parking requirement to 3.5 spaces (35% of 10) would be a reasonable compromise.

As noted no additional parking is being provided as part of the application and in fact to facilitate the drive thru component there would a net loss of 3 spaces (from 82 to 79 spaces). Coupled with the 3.5 requirement as detailed above this would give an

overall shortfall of 6-7 spaces. In the context of the overall neighbourhood centre I do not consider that this shortfall to be material as to warrant a refusal of permission for the proposed development.

The provision of a footpath along the unit's frontage extending to the ATM machine as required by condition 5 of the planning authority's notification of decision to grant permission is a reasonable requirement and will improve the pedestrian environment. The splaying of the parking spaces along the front boundary in the direction of the one way system is also appropriate.

7.3. Other Issues

Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Environmental Impact Assessment

The proposed change of use does not fall within a class of development for which EIA is required.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations, subject to conditions.

9.0 Reasons and Considerations

Having regard to the neighbourhood centre zoning of the site in the current Tralee Town Development Plan, the mix of uses and pattern of development in the vicinity and to the nature and scale of the proposed development, 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, would not give rise to a traffic hazard or to traffic congestion and would not prejudice

pedestrian safety. The propose 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 as amended by the further plans and particulars submitted on the 1st day of August, 2018 and 7th day of September 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. No advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

3. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

4. The hours of operation shall be between 0800 hours and 2200 hours Monday to Sunday, only.

Reason: In the interest of the amenities of property in the vicinity.

5. All car parking spaces along the front (northern) site boundary shall be

splayed in the direction of the one way system within the development.

Reason: In the interest of traffic safety

6. A site layout drawing with all road markings and signage within the overall Manor West Neighbourhood Centre shall be submitted to the planning authority for its written agreement prior to commencement of development. All agreed road markings and signage shall be in place prior to the opening of the proposed development.

Reason: in the interest of traffic safety.

7. The exit point of the one way system shall be reduced to 3.5 metres in width and shall incorporate a footpath area along the northern (front) elevation of the building. A site layout plan with the necessary alterations shown thereon shall be submitted to the planning authority for its written agreement prior to commencement of development.

Reason: In the interest of traffic safety.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

9. 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, 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. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

Pauline Fitzpatrick
Senior Planning Inspector

February, 2019