



An  
Bord  
Pleanála

## Inspector's Report ABP-302913-18

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<b>Development</b>	Development of a Community Primary Healthcare Centre and Pharmacy including Change of Use, demolition and alterations to existing Structures
<b>Location</b>	Mitchel Street, Thurles County Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	17601276
<b>Applicant(s)</b>	Action Enterprises Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Nora Maher & Mary Maher
<b>Date of Site Inspection</b>	30 <sup>th</sup> January 2019
<b>Inspector</b>	Colin McBride



## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.82 hectares, is located on the northern side of Mitchel Street in the centre of Thurles. The site is occupied by a number of vacant structures. Along the road frontage is a protected structure (RPS 61) described as a pair of three and four bay 2-storey houses. To the rear of these structures are a number of outbuildings including a fire damaged former bakery building. Adjoining uses are residential in nature. Immediately along the western boundary is a laneway and beyond the laneway is a two-storey dwelling fronting onto Mitchel Street (no. 14, the appellant dwelling). Adjoining the western boundary further north are three-storey apartment blocks part of the existing Butler Court housing development. To the east there is also a two-storey dwelling fronting onto Mitchel Street. Further north along the eastern boundary is the housing development of Sli Na Suire (two-storey dwellings). To north are undeveloped lands.

## 2.0 Proposed Development

- 2.1. Permission is sought for the development of a Community Primary Healthcare Centre and Pharmacy. The development includes change of use, alteration (including part demolition to the rear) and extension of two no. attached and interlinked two-storey roadside buildings with retail on part of the ground floor and residential elsewhere to provide HSE medical, health and social services facilities and ancillary uses (the two buildings are protected structures, RPS Ref, No. 61-22312061). Demolition of all former bakery buildings and associated structures to the rear of the aforementioned roadside buildings and a derelict roadside storage building and barn to the east;

Erection of a two-storey extension to the rear of the aforementioned roadside buildings (protected structures RPS Ref. No. 61-22312061) to provide further HSE medical, health and social services facilities, General Practice, floor space for non allocated private healthcare consultancy, meeting rooms, administrative offices, staff accommodation, receptions and ancillary uses;

Erection of an attached single-storey pharmacy shop unit at the south east corner of the community primary health car building;

External works to the structure including roof plant and signage.

New pedestrian and vehicular entrance off Mitchell Street, parking, circulation, external amenities (including landscaping), lighting, signage, sub-station/switch room, bin store and all associated services with connections to public services and all associated site works. Plans were revised in response to further information with alterations to the western boundary submitted and approved. The alterations at FI included screening of windows and obscure glazing.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission granted subject to 14 conditions. Of note are the following conditions...

Condition no. 3: Bat survey required.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

Planning report (22/01/18):

- Further information required including a revised design along Mitchel Street having regard the ACA Design Statement, revised plans to deal with overlooking concerns of neighbouring properties (western elevation), submission of light proposals, and revised plans of signage, clarify future plans for residential zoned lands and details of storm water attenuation and surface water.

Planning report (08/10/18)

- The proposal was considered acceptable in the context of the proper planning and sustainable development of the area. A grant of permission was recommended based on the conditions outlined above.

##### **3.2.2. Other Technical Reports**

### 3.3. Prescribed Bodies

Department of Culture, Heritage and the Gaeltacht: Archaeological conditions.

Department of Culture, Heritage and the Gaeltacht (26/09/18): Archaeological conditions and nature conservation recommendations.

### 3.4. Third Party Observations

#### 3.4.1 Observation by Healy Partners on behalf of Livion Healthcare Ltd/ a Zest Healthcare.

- The observers have got planning permission for such a facility on an alternative site (former Munster Hotel) and such is significantly better location in particular in regards to handling traffic associated with the proposed development.

#### 3.4.2 Observation Nora Maher & Mary Maher, Mitchel Street, Thurles.

- Concerns are expressed regarding overlooking from the western elevation, the physical mass and bulk of the structure in close proximity to the appellants' property with an adverse visual impact and loss of light caused. It is also noted there is a lack of details of operating hours.

#### 3.4.3 Observation by Tim Looby Accountants

- Permission has been granted for a similar development on the site of the Munster Hotel (ref no. 15600305) with it being a better location.

#### 3.4.4 Observation by Jonathon Berry, 40 Ashgrove, Monadreen, Thurles, Co. Tipperary.

- The proposed development would lead to further congestion on a busy road. The proposal would exacerbate existing congestion issues in the area.

3.4.5 Observaion by Martin Healy, Laurel Hill House, Two-Mile-Borris, Thurles, Co. Tipperary.

- The observer has been granted permission for a similar project on the site of Munster Hotel and such would be a much better location in terms of parking and accessibility. It is noted there is another clinic/health centre permitted in close proximity under ref no. 1450004.
- Other issues raised include security of adjoining properties, additional details of works around the fuel tank, noise impact from plant/substation, overlooking of adjoining properties on Mitchel Street, impact of lighting, the future plans for the roadway, the impact of traffic on Mitchel Street which is already congested, , the entrance layout and pedestrian crossing and its implications in regards to traffic hazard, level of sightlines available, the proximity to an existing pharmacy, the level of parking provided on site, requirement for Flood Risk Assessment and the status of the existing building on site in regards to the RPS.

3.4.6 Further observation by Nora & Mary Maher, Mitchel Street, Thurles.

- The observation reiterates concerns regarding overlooking, physical size in proximity to the observers' property. The observers also raise concerns regarding impact of light, the lack of details regarding opening hours and future development proposal for adjoining lands.

## 4.0 Planning History

No planning history.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant plan is the Thurles Town and Environs Development Plan 2009-2015 as varied. The site is impacted by two zonings. The southern part of the site is zoned

'RC', Retail and Commercial with a stated objective 'to provide for and improve retail and commercial activities'.

A health centre is noted as being 'open for consideration' within this zoning objective.

The northern part of the site is zoned 'R1', New residential with a stated objective 'to provide for new residential development'.

A health centre is noted as being 'open for consideration' within this zoning objective.

Two of the existing buildings on site are protected structures, RPS Ref, No. 61-22312061.

The site is located within an Architectural Conservation Area.

## 5.2. **Natural Heritage Designations**

Lower River Suir SAC (site code 002137), 3.4km from the site.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

A third party appeal has been lodged by William Gleeson on behalf of Nora Maher & Mary Maher, no. 14 Mitchel Street, Thurles, Co. Tipperary. The grounds of appeal are as follows....

- The appellants live the dwelling to west of the appeal site. The appellants have concern regarding visual impact and the considerable mass of the development when viewed from their rear garden. It is considered that the proposal is excessive in height and scale and will have a negative impact on the amenity of the appellants.
- It is noted that the appellants in their observations requested a 3D view/photomontage of the development from their rear garden however such was neither requested nor provided.
- The appellants notes the dimensions and particular height of the structure relative to the adjoining property and have provide a 3D view/photomontage

representing the impact of the proposal for the Board's consideration. It is noted that the building is excessive in scale and taken with its proximity to the adjoining property will cause excessive overshadowing.

- The appellants welcome the redevelopment of the Sweeney's bakery site and note that any development at this location must have regard to its location within an ACA. The appellant question the site as an appropriate location for the primary healthcare centre and refer to an alternative site, the St. Marys Health Centre as a more appropriate structure and location for such a use.

## 6.2. Applicant Response

Response by Peter Thomson Planning Solutions on behalf of the applicants Action Enterprises Limited.

- It is noted that the footprint of the building proposed is broadly similar to the existing complex of building on site. It is considered that the new structure will not be overbearing having regard to separation distances involved. The applicant has prepared before and after photomontages to views from the appellants garden and Butlers court.
- It is noted that concern regarding overlooking were addressed in response to further information.
- It is noted the loss of sunlight and daylight to the rear of the appellants' property is negligible and the applicant has submitted a shadow analysis in this regard.
- It is noted that all options were considered by the applicant and the HSE with the appeal site chosen due to its size and flexibility for future expansion.

## 6.3. Planning Authority Response

Response by Tipperary County Council

- The Planning Authority has no observations regarding the appeal.



## 6.4. Further Responses

Response by William Gleeson on behalf of the appellants Mary Maher & Nora Maher, 14 Mitchel Street.

- The appellant notes the grounds of appeal remain the same, however they have responded to the applicants submission in respect of their appeal.
- It is noted that the applicants have no provided a photomontage showing the perspective of the development from the view requested and that the photomontages submitted demonstrate the inappropriate height and scale of the proposal relative to the appellants' property.
- The appellants reiterate concerns regarding loss of light to windows serving their living space.
- The appellants reiterate their concerns regarding the design, scale and proximity of the development to the rear of their dwelling and the adverse impact such would have in terms of being overbearing, loss of light and privacy.

## 7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Adjoining amenity.

Suitability of location/protected structure

Appropriate Assessment

7.2 Adjoining amenity:

7.2.1 The main issue raised in the appeal relates to the overall scale and proximity of the proposed development to a dwelling adjoining the western boundary of the site. The appellants' dwelling is no. 14 Mitchel Street and fronts directly onto Mitchel Street

with a sizeable garden area to the rear. There is an existing laneway running between the appeal site and the existing dwelling that continues along the western boundary of the site.

7.2.2 The proposed/approved structure is two-storey in height and incorporates refurbishment of the existing protected structure along Mitchel Street. Where the structure adjoins the western boundary, it is a flat roofed structure with a height above ground level of 8.1m for the majority of its height. There is a small section where it adjoins the protected structure where is 7.085m in height, a section with lift shaft that is 9.085m high and the highest section (water tank room) where the ridge height is 10m over ground floor level. In terms of separation distances from the western boundary the building is set back between just over 3m and up to 4.8m. Where the building is located the rear of the no. 14 Mitchel Street it is set back at first floor level and has courtyard area. In addition to the separation distance between the building and the western boundary, there is a laneway located between the appeal site and the appellants' property.

7.2.3 Having inspected the site and the appellants' property, I would note that the overall scale of development proposed/approved relative to adjoining amenity is satisfactory. The structure approved is mainly two-storey in nature with a ridge height of 8m for most of its length. The structure is adequately separated from the adjoining property by being setback from the western boundary and the fact that there is an existing laneway located between the appeal site and adjoining properties to the west. In relation to overlooking the revised elevation provides for obscure glazing and shutters that would prevent overlooking or loss of privacy. In relation to overshadowing the applicant has submitted details of a shadow analysis. This shadow analysis demonstrates that the proposal would have an acceptable impact in regards to overshadowing. I am satisfied that the design and scale of the development has adequate regard to the amenities of adjoining properties on all sides including the appellants' property. The proposal is an acceptable level of development on a currently underutilised town centre site.

### 7.3 Suitability of location/protected structure

7.3.1 The appellants question the suitability of the location noting that permission has been granted for a similar development on an alternative site. The site in question is the site of the former Munster Hotel with permission granted under ref no. 15600305. I would note that the current proposal is being assessed on its merits and the fact that another similar development has been permitted on an alternative site is not a planning consideration. The proposal is on an underutilised former commercial site zoned for retail and commercial use under the Thurles and Environs Development Plan. The proposed use is noted as being 'open for consideration'. I am satisfied the site is a suitable location for the proposed development.

7.3.2 The appeal site includes a protected structure, which is being retained and refurbished as part of the overall proposal. The proposal is successful in integrating the existing protected structure and providing for sustainable future use.

### 7.4 Appropriate Assessment

7.4.1 A Natura Impact Statement was submitted (NIS). The NIS identified all designated sites within the zone of influence. Within 15km one designated site was identified, the Lower River Suir SAC (site code 002137), 3.4km from the site. The NIS outlined the conservation objectives of the site and habitats and species which define the site. The NIS noted there are no potential direct effects. Potential indirect effects include surface water discharge. It is noted that the surface water discharge will be to the existing municipal infrastructure and that there is no potential for indirect effects through surface water discharge. It is also noted that there is not likely to be any cumulative impact of the proposed development on any European sites in combination with other plans and projects.

7.4.2 Having regard to the nature and scale of the proposed development and its 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.

## 8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard the land use zoning objectives for this site as set out in the Thurles and Environs Development Plan 2009-2015, the site's town centre location, the pattern of development in the area, and the design 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 integrate with existing development in the area in a satisfactory manner, would be acceptable in terms of traffic safety and convenience, and would be in accordance with the provisions of the said Development Plan. 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, as amended by the further plans and particulars submitted on the 13<sup>th</sup> 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. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The following requirement shall be complied with:

(a) A Variable Message Sign (VMS) shall be installed adjacent to the roadside boundary such that it is visible to approaching traffic. The sign should display information on the availability of car parking spaces within the site.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

4. The proposed development shall comply with the following requirements:

(a) Any alterations to the public roadway including the provision of indented car parking shall be submitted to, and agreed in writing with, the planning authority. All agreed works shall be at the developer's expense.

(b) The developer shall undertake to implement the measures included in the Mobility Management Plan. A mobility manager shall be employed to oversee the implementation of the Mobility Management Plan and shall liaise regularly with the Mobility Management Section of the planning authority. The Mobility Manager shall proactively engage with the planning authority regarding the implementation and review of the Mobility Management Plan, the preparation of reports as detailed under (c) below and the setting of specific targets for reduction of private car use and staff parking.

(d) No later than six months post occupancy, a car parking review shall be undertaken and the results submitted to the Mobility Management Section of the planning authority. This review shall monitor the allocation and use of car parking spaces by staff and visitors both on and off site. This review shall inform discussions with the planning authority regarding reducing the overall level of staff car parking available on site over time in the interest of reducing commuting by private car.

Reason: In the interest of traffic management, sustainable travel and sustainable development.

5. The developer is required to employ a suitably qualified archaeologist, licensed under the National Monuments (Amendments) Acts 1930-2004, to monitor all topsoil stripping and ground disturbances associated with the development.

(a) No groundworks/construction works are to take place in the absence of the archaeologist and four weeks written notice regarding commencement of works on this site shall be submitted to the Department of Culture, Heritage and Gaeltacht in advance of works commencing.

(b) Monitoring is to take place to the uppermost archaeological horizons only - where they survive. Should archaeological material be found during the course of the archaeological monitoring, the archaeologist shall stop work on the site pending further advice from the Department of Arts, Heritage, regional, Rural and Gaeltacht Affairs with regard to further archaeological mitigation and revisions to the archaeological method statement.

(c) All features found shall be hand-cleaned and clearly visible for photographic purposes.

(d) The development shall be prepared to be advised by the Department of Culture, Heritage and Gaeltacht with regard to any necessary mitigating action e.g. redesign to allow for preservation in situ, and/or excavation. The applicant/developer shall facilitate the archaeologist in recording any material found.

(e) The Department of Culture, Heritage and Gaeltacht and the Planning Authority shall be furnished with a report describing the results of monitoring within 3 months of completion of ground works.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

6. No additional signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. Site development and building works shall be carried out only between 0800 hours and 1900 hours, Monday to Friday inclusive, between 0800 hours and 1400 hours on Saturday and not at all on Sundays, Bank or Public Holidays. Deviation from these times shall only be allowed in exceptional circumstances where the prior written agreement of the planning authority has been received.

Reason: To protect the residential amenities of the area.

8. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

10. Prior to commencement of development, the developer shall submit a construction and demolition waste management plan to the planning authority for agreement prepared in accordance with the Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects published by the Department of the Environment, Heritage and Local Government in July, 2006. This shall include details of wastes to be generated during site clearance and construction phases and details of the methods and locations to be employed for

the prevention, minimisation, recovery and disposal of this material in accordance with the provisions of the Waste Management Plan for the region in which the site is situated.

Reason: In the interest of orderly development and sustainable waste management.

11. Prior to commencement of development, the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular, recyclable materials, in the interest of protecting the environment.

12. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

13. All access and parking arrangements, including any alterations to the public road, shall comply with the detailed requirements of the planning authority for such works and services, and details in regard to the proposed relocation of the existing pedestrian crossing shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Costs associated with all such works shall be borne by the developer.

Reason: In the interest of traffic safety and to ensure a proper standard of development.



14. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

15. The site shall be landscaped in accordance with the landscaping scheme submitted with the application, including implementation of all tree protection measures to ensure preservation of the trees identified for retention. Landscaping proposals shall be completed before the building is first made available for occupation.

Reason: In the interest of visual amenity.

16. Prior to the commencement of development, the developer is required to carry out a bat survey to determine if bats are present in the structure or trees to be felled. This survey is to be undertaken by a suitably qualified bat specialist/ecologist and the results of same shall be submitted to the Planning Authority and the Department of Culture, Heritage and Gaeltacht. The applicant is advised that all bat species are protected by the Wildlife Amendment Act 2000 (as amended) and are listed in Annex IV of the EU Habitats Directive. If any bat species are found to be roosting at the site, a derogation license must be obtained from *Wildlife Licensing Unit of the National Parks and Wildlife Service of the Department of Arts, Heritage, regional, rural and Gaeltacht Affairs* prior to the commencement of development.

Reason: To protect the natural heritage of the area.

17. 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.

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Colin McBride  
Planning Inspector

10<sup>th</sup> February 2019