



An
Bord
Pleanála

Inspector's Report ABP-303714-19

Development	Alterations to an industrial unit, including demolition and extension works and revised internal and external layouts
Location	Unit 10, Saint Colm's Centre, Finisklin Business Park, Sligo, County Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	PL 18/458
Applicant(s)	Michael McGoldrick
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	1.) Rena Pros, Mary Rooney & Brendan Kilcullen
Observer(s)	None
Date of Site Inspection	11 th April 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

1.1. The appeal site is located within the Finisklin Business Park area on the west side of Sligo. The immediate area is characterised by a range of commercial and industrial uses, including offices, warehousing, trade retailers and enterprise units. The site is stated to measure 0.35ha and is occupied by a vacant industrial building with ancillary offices on the west side. A row of angled car parking is provided directly to the front of the building, while perpendicular parking is provided along the rear service yard boundary, which is enclosed by palisade fencing and accessed from the east off an access road to Saint Colm's Centre business park. A footpath and landscaped verge, including a line of trees, separates the front parking area from the roadside. There is a gradual drop in ground levels from the southwest corner of the site to the northeast corner, replicating the drop in levels towards the coast in the immediate surrounding area.

2.0 Proposed Development

2.1. The proposed development comprises the following:

- demolition of a rear cold storage projection with a stated gross floor area (GFA) of c.217sq.m;
- internal alterations to the existing building layout, which has a stated GFA of 1,426sq.m;
- external alterations to the building elevations, including the creation of a new entrance feature to the southeast corner, provision of a replacement glazed front canopy to the ancillary offices entrance, provision of additional and widened doors and windows along the front, rear and east side elevations at ground floor and revised finishes;
- revised site layout, including repositioning of the vehicular access off the business park road to the east, revised parking layout and provision of landscaping to the rear service yard area and to the front, provision of a bike shelter on the west side and provision of a footpath circulating the building.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to six conditions of a standard nature, including the following:

Condition 1(b) – permission does not authorise a change of use;

Condition 4 – protect roadside trees;

Condition 5 – provide fuel interceptors.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the Planning Officer (January 2019) reflects the decision of the Planning Authority and noted the following:

- the proposed development would provide for improved industrial/business/office facilities;
- the proposed alterations to the elevations would improve the appearance of the building;
- the repositioning of the access along the cul de sac to the east would not have a significant impact on vehicular movements;
- the revised parking layout is to be welcomed and based on parking standards the overall parking requirement for the industrial premises would reduce with the removal of the cold room store.

3.2.2. Other Technical Reports

- Area Engineer – grant of permission recommended, subject to conditions;
- Water Services – no response on file;
- Environment Section – conditions recommended to be attached should a permission arise.

3.3. Prescribed Bodies

- Irish Water – no response.

3.4. Third-Party Submission

- 3.4.1. One submission was received by the Planning Authority during consideration of the application and the issues raised are covered within the grounds of appeal below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. The following planning application relates to the appeal site:

- Sligo County Council (SCC) Ref. PD4475 – permission granted in November 1998 for an extension to offices and industrial floor area on the north and south elevations.

- 4.1.2. The following referral relates to the appeal site:

- SCC Ref. ED348 – in March 2019 the Planning Authority decided that the change of use of the industrial building on site to a day services centre would constitute development and would not constitute exempted development.

4.2. Surrounding Sites

- 4.2.1. Reflective of the inner-urban commercial context, there have been numerous applications on lands in the immediate vicinity, primarily relating to alterations and extensions to existing facilities and change of use proposals, none of which appear to be of particular relevance to the subject appeal.

5.0 Policy & Context

5.1. Sligo County Development Plan 2017-2023

- 5.1.1. Appendix A to the Sligo County Development Plan 2017-2023 states that the written statement and the objectives maps pertaining to the Sligo & Environs Development Plan 2010-2016 have been appended to the County Development Plan. The appeal site is located within an area covered by the appended Sligo & Environs Plan.

5.1.2. The general planning policies and objectives for County Sligo are outlined in Volume 1 of the County Development Plan, while more specific local planning policies and objectives pertaining to the appeal site are outlined in the Sligo & Environs Plan. The appeal site has a land-use zoning objective 'MIX-1 – Mixed Uses (non-retail)', where the stated land-use zoning objective is to 'promote the development of a dynamic mix of uses able to create and sustain vibrant residential and employment areas'. There are no specific local objectives identified in the Plan for this site. Section 16.4.21 of the Sligo & Environs Plan outlines specific requirements for industrial development, including the need to present a pleasant aspect and ensure adequate provision of car parking and landscaping. A minimum of one car parking space per 50sq.m of GFA is required for light industrial uses. Section 13.6.5 of the County Development Plan outlines development management standards for industrial and other development.

5.2. Environmental Impact Assessment - Preliminary Examination

5.2.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One third-party appeal has been submitted on behalf of three individuals from the Sligo and environs area. The issues raised can be summarised as follows:

Proposed Use

- the appellants understand that it is intended to use the upgraded building as a day care centre for young adults with intellectual and physical disabilities to be operated by the Health Service Executive (HSE) and that this would require a material change of use of the property;

- correspondence from the HSE is enclosed with the appeal referring to the consideration of sites for a new day services hub in Sligo, including a site in the periphery of the Finisklin Business Park area. A proposed ground floor plan drawing accompanies the appeal, illustrating an alternative floor plan for the building than that proposed in the subject planning application;
- use of this urban industrial location for day care services would not be appropriate, would not comply with the zoning provisions and policies of the Development Plan and would be contrary to the HSE's policy with regard to suitable service locations for health service facilities;
- it was misleading of the Planning Authority to refer to the building as a large industrial building within their Planning Report and to subsequently, outline within condition 1(b) of their notification of a decision, to the continuation of the office/industrial use on site;

Validity of the Application

- the public notices for the application did not refer to the proposed use of the building for day care services and the detailed floor plan layouts submitted do not identify the proposed room uses;
- the most recent use of the building was for industrial use and not for 'mixed-use', as referenced in the public notices, with 700sq.m of office space in the building ancillary to its primary industrial use. Previous permissions relating to the building on site do not provide for its subdivision;
- the ground-floor plans reveal that the sole internal connection between the ancillary office area and the industrial area would be blocked up under the subject proposals and a new reception area would be created for the industrial area, thus facilitating the creation of two distinct and independent units;
- concerns are expressed regarding procedural matters and timelines in issuing of the decision by the Planning Authority;
- site notices were erected that did not comply with legislative requirements, as they were not legible from the public road and as a consequence the public may not have been aware of the application for the proposed development;

- questions whether or not the applicant has sufficient legal status to submit the planning application.

6.2. Applicant's Response

6.2.1. The applicant's response to the grounds of appeal can be summarised as follows:

- the application submitted was robust and comprehensively addressed all matters necessary, with the proposed development according with planning policy;
- the existing established use of the building would be maintained, a material change of use and subdivision of the building is not proposed and any alternative use or subdivision requiring planning permission would be subject of a future application;
- the concept floor plan drawing submitted by the appellants has not been submitted with the planning application and the HSE has not made a formal decision to progress such plans;
- the applicant is seeking to upgrade the existing vacant building to make it more accessible and attractive for a potential end-user;
- the existing use of the building, as referenced in the development description, is accurate and the Board can request, by condition, that the internal connection between the office and industrial areas be maintained;
- the attachment of condition 1(b) to the decision of the Planning Authority was clearly undertaken to address the concerns raised by the appellants;
- the three site notices for the subject application were displayed in accordance with the Planning Authority's requirements and the legislative requirements;
- correspondence from the applicant's legal representative is submitted to confirm that the applicant is the owner of the site.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response to the grounds of appeal can be summarised as follows:

- the existing use of the building is considered to be ‘industrial with ancillary offices’ and reference to ‘mixed-use’ of the building within the public notices does not infer a material change of use is proposed nor is it permitted;
- condition 1(b) of the Planning Authority decision clarifies the permitted use of the building further;
- the blocking of the internal connection between the office and industrial areas would not result in a material change of use of the building and is quite common for industrial buildings;
- the Board may wish to attach additional restrictions to the proposed development, clarifying that the unit shall not be subdivided and that the office use would remain ancillary to the industrial use;
- the Planning Authority has not been contacted regarding the proposed use of the building for day centre services. However, in February 2019 the Planning Authority did receive a Section 5 referral from one of the appellants querying whether the use of the industrial building for day centre services would or would not be exempted development. A copy of the Planning Authority’s declaration and the associated Planning Officer’s report for this referral (SCC Ref. ED348) accompanies the Planning Authority’s response;
- sufficient legal interest in the site to make the application has been established;
- the site notices for the application were visible and legible.

6.4. Observations

6.4.1. None received.

7.0 Assessment

7.1. Introduction

7.1.1. I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Design & Layout;

- Proposed & Future Use;
- Other Matters.

7.2. Design & Layout

- 7.2.1. The site and surrounding area does not have any conservation status. Section 16.4.21 of the Sligo & Environs Plan, which is appended to the Sligo County Development Plan 2017-2023, outlines that proposals for industrial development need to present a pleasant aspect and ensure adequate provision of car parking and landscaping.
- 7.2.2. The proposed development would comprise various external alterations to the building elevations, including the provision of an entrance reception block set into the southeast corner of the building and the introduction of windows and doors along the front, rear and east side elevations. In considering the planning application, the Planning Authority stated that the proposed alterations to the elevations would improve the appearance of the building. The existing building on site is not of particular architectural merit and is of modest industrial scale, including a distinct office element on the wide side and a lower industrial area on the east side. By introducing windows and widened entrances, the proposed development would break up the building façades, while also allowing for increased light into the building, which would be similar to the façade treatment along the front elevation of the neighbouring building immediately to the east. The scale, height, proportions and design of the proposed reception element would generally balance with the ancillary office building element on the opposite end of the building. I consider that the proposed external alterations, would improve the appearance of the building and would not unduly impact on the character of the area.
- 7.2.3. It is proposed to alter the layout of the external areas to the site, including revised parking arrangements. It is also proposed to reposition 8.5m further to the north the entrance along the east side off the business park road, while landscaped strips would be provided along the immediate rear and east side of the building and along the rear boundary. A footpath would be provided circulating the building. Based on Development Plan standards the minimum car parking requirement would reduce to 24 spaces, as a result of the demolition of the cold store. A total of 42 spaces would be provided, with reduced parking and a one-way traffic-flow system to the front,

while vehicles would no longer need to traverse the public footpath when using the car park spaces in this area. The Area Engineer from the Planning Authority did not object to the revised vehicular entrance and the Planning Authority welcomed the revised parking layout. The only landscaping currently on site comprises six trees along the rear boundary. I am satisfied that the introduction of landscaping would be of benefit to the visual amenities of the area and the existing six trees should be maintained as part of this.

- 7.2.4. In conclusion, I am satisfied that the proposed external alterations to the building and the proposed revisions to the site layout would not conflict with the pattern and character of development in the area, would include adequate provision for car parking and landscaping and would accord with the provisions of the Development Plan. Accordingly, the proposed development should not be refused for reasons relating to design and layout.

7.3. Proposed & Future Use

- 7.3.1. The grounds of appeal assert that the proposed use of the building would not be for the use detailed within the application drawings and documentation. Copies of correspondence from the HSE accompanies the appeal, referring to the consideration of a site in the Finisklin Business Park area of Sligo for a new day service hub. The grounds of appeal assert that the proposed works are intended to facilitate subdivision of the building and the use of the site as a day service centre. It is also asserted in the grounds of appeal that these works have not been specifically applied for in the application and that they would require a material change of use of the building. In response to the grounds of appeal the applicant stated that the existing use of the site for industrial purpose with ancillary offices would be maintained, subdivision of the site is not proposed and any alternative use or subdivision of the building requiring planning permission would be subject of a future application. A recent referral (SCC Ref. ED348) adjudicated upon by the Planning Authority concluded that the use of the appeal site for day centre services would not be exempted development, and therefore would require planning permission.
- 7.3.2. The planning history for the site would suggest that the established use of the building is for industrial use with ancillary offices and this is not contested by parties to the appeal. To address the concerns raised by third parties regarding the

potential use of the site, the Planning Authority state that they attached a condition (1b) to their notification of a decision, to clarify that the permission does not authorise a change of use from the existing industrial use with ancillary offices. To strengthen this further, the Planning Authority has also suggested that the Board may wish to attach additional restrictions to the proposed development via conditions, clarifying that the building shall not be subdivided and that the office use would remain ancillary to the industrial use.

- 7.3.3. I am satisfied that the application documentation and drawings do not propose an alternative use of the building. Furthermore, there is no reference in the application to use of the building as a day service centre. The application would result in the sole internal connection between the industrial and office elements being omitted and I am satisfied that this in itself does not result in the subdivision of the building from a planning perspective, particularly given that such a subdivision was not expressly applied for in the application.
- 7.3.4. In conclusion, the applicant has clearly articulated that the intended use of the building would be maintained and I am satisfied that any alternative uses are extraneous to the assessment and adjudication of this appeal. Accordingly, I am satisfied that permission should not be refused for reasons relating to the proposed use and that specific and restrictive conditions would not be necessary to establish further the parameters of the permission.

7.4. Other Matters

- 7.4.1. The grounds of appeal assert that the three site notices displayed were inadequate to inform members of the public in relation to the proposed development and that they did not comply with the legislative provisions within the Planning and Development Regulations 2001-2019. The Planning Authority is satisfied that the notices on site were visible and legible. The site notices locations were identified on both the existing and proposed site layout drawings (No.17.68.102 & 17.68.103). I am satisfied that based on the lands in control of the application, which exclude the landscaped strip along the public road, a reasonable approach in displaying the site notices was undertaken. Furthermore, on the basis of the documentation on file, there would appear to be no evidence to suggest that the rights of any third party were compromised based on the approach taken in displaying the site notices.

8.0 **Appropriate Assessment**

- 8.1. Having regard to the existing development on site, the minor nature of the proposed development, the location of the site in a serviced area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 **Recommendation**

- 9.1. I recommend that permission be granted for the proposed development, subject to conditions and for the reasons and considerations, as set out below.

10.0 **Reasons and Considerations**

- 10.1. Having regard to the existing development on site, to the nature and scale of the proposed development and to the existing pattern of development in the vicinity, it is considered that subject to compliance with the conditions below, the proposed development would not be out of character with existing development within the area, would be acceptable in terms of design and layout and would be in accordance with the provisions of the Sligo County Development Plan 2017-2023. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 **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 the 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 alterations to the external finishes to the building, including landscape proposals, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual and residential amenities of the area.

3. Water supply and drainage arrangements, including the disposal of surface water and provision of fuel interceptor(s), shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health.

4. All trees within, adjoining and on the boundaries of the site shall be retained and maintained, with the exception of the following:
 - (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
 - (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interest of visual amenity.

5. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

6. 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.

Colm McLoughlin
Planning Inspector

27th May 2019