



An
Bord
Pleanála

Inspector's Report

ABP-304299-19

Development	Demolition of disused building, construction of extension to existing car parking with ancillary boundary works and associated site works
Location	Freefoam Plastics Ltd, Centre Park Road, Ballintemple, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	18/37945
Applicant(s)	Freefoam Plastics Limited
Type of Application	Permission
Planning Authority Decision	Cork City Council
Type of Appeal	Third Party
Appellant(s)	M. and T. McCarthy
Observer(s)	None
Date of Site Inspection	29 th July 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of Centre Park Road, in an industrial area approx. 1km east of the city centre.
- 1.2. The site has an overall stated area of 340sqm and accommodates a single storey disused pumphouse building, in the north east corner of a larger landholding within the applicant's ownership. The existing boundary treatments include a palisade fence and a chain link fence.
- 1.3. Access to the site is via Centre Park Road.

2.0 Proposed Development

- 2.1. It is proposed to demolish an existing single storey disused pumphouse and an attached ancillary building to accommodate extension to the existing Freefoam Plastics Limited car park (11 no. spaces) on the subject site. The pumphouse has a stated gross floor area of 63.7sqm and the ancillary building has a stated gross floor area of 7.3sqm.
- 2.2. The works also include the provision of a 2.8m high green palisade fence along the northern boundary of the site.
- 2.3. ***Further Information lodged 1st February 2019***

In response to a request to further information the proposed car parking was omitted and a turning area / set down was provided.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 4 no. conditions. The relevant conditions are noted below.

Condition 1: clarified that permission was granted for the development submitted by way of further information.

Condition 2 and 4: related to the management and disposal of waste

Condition 3: related to noise management and working hours.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The initial Area Planners report raised a number of concerns and recommended that further information be requested regarding the following: -

- Details of all lands within the applicant's ownership
- A site layout plan, including details of an existing structure on the northern elevation
- Elevational and contiguous drawings of the proposed boundary treatment
- Clarify details of planning history
- Clarify the size of the existing building and the existing number of car parking spaces
- A detailed layout of the proposed car parking area

The final Area Planners report and the Senior Executive Planners report considered that all concerns had been adequately addressed and recommended that permission be granted.

3.2.2. *Other Technical Reports*

Environment Report: No objection subject to conditions

Roads Design (Planning) final report: No objection

Drainage Report: No objection

3.3. Prescribed Bodies

Irish Water: No objection

3.4. Third Party Observations

None

4.0 Planning History

ABP-304020-19: Leave to appeal was granted for M. and T. McCarthy.

TP02/26113: Permission was granted in 2002 for the installation and operation of a polymer mixing plant, including the erection of 9 no. Storage Silos (approx. 16m in height).

5.0 Policy Context

5.1. Cork City Development Plan 2015 - 2021

The subject site is located at the boundary of two zoning objectives. The western section of the site is zoned ZO8 – District Centre with the associated land use objective *‘to provide for and/or improve district centres as mixed-use centres, with a primary retail function which also act as a focus for a range of services’*.

The eastern section of the site is zoned ZO 16 – Mixed Use Development with the associated land use objective *‘to promote the development of mixed uses to ensure the creation of a vibrant urban area, working in tandem with the principles of sustainable development, transportation and self-sufficiency’*.

Chapter 5 - Transportation has a number of policies and objectives which aim to reduce traffic congestion in the city centre and promote sustainable modes of transport.

Section 13.93 – Non compatible uses and Objective 5.1(b) and (l) – Strategic Transport Objectives are considered relevant.

5.2. Natural Heritage Designations

There are no relevant designated areas in the immediate vicinity of the site.

5.3. EIA Screening

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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from M. and T. McCarthy. The issues raised are summarised below.

- The applicants do not have a leasehold over the site. The appellant holds the leasehold and occupies the subject site. They are the owners of the adjoining property, Centre Park House. The applicants do not have consent to make this application.
- The proposed development would facilitate the expansion of the existing manufacturing use which is not compatible with the zoning objective and would detract from the amenities of the area.
- Permission was granted for a development that is significantly different than what was applied for.
- The development as granted would pose a threat to underground infrastructure as it would facilitate HGV turning movements.
- The development as granted would devalue the appellants property.

6.2. Applicant Response

The applicant's response is summarised below: -

- The appellants have no legal rights over the subject site. Legal documentation has been submitted in support of the applicants.
- The existing building is redundant and unused. Its demolition and the revised boundary treatment would improve the visual amenities of the area.
- It was initially intended to provide 11 no. car parking space on site. In response to further information, it is intended that the area be used as a turning and set

down area for car traffic only. The revised use is not significantly different from the original proposal.

- The proposed development is ancillary to the established use on site and would not result in an intensification of existing use on site.
- It is acknowledged that the existing established manufacturing use is does not conform to the land use zoning objectives, however, having regard to Section 13.93 (non-conforming uses) of the Development Plan the proposed development should be assessed on its merits.
- Due to the limited size of the site it is not suitable for HGV movements. It is not proposed to facilitate turning, parking, loading or unloading of HGVs on the site.
- The surface level would be constructed to ensure the integrity of below ground services.
- The existing underground pump forms a part of a gravity feed connection between the appellants lands and the Cork Main Drainage Scheme connection on Centre Park Road. The location and function of the below ground pump would not be altered by the development. Adequate maintenance access would be provided, if required. The proposed development would not affect either the appellants enjoyment of the land or the value of the lands.

6.3. Planning Authority Response

No further comments.

7.0 Assessment

- 7.1. This application relates to the demolition of an existing disused pump house and the provision of 11 no. car parking spaces. In response to the request for further information the 11 no. car parking spaces were omitted. Permission was granted for a hard-standing area with limited landscaping, which would facilitate vehicular turning movements. In my view, the provision of 11 no. car parking spaces or a hard-standing area for vehicular turning movements are not significant different. As indicated the appeal refers to the demolition of an existing pump house and the provision of a hard-

standing area as submitted to the Planning Authority by way of further information on the 1st February 2019. Therefore, the following assessment focuses on that proposal.

7.2. The main concerns raised in this appeal relate to legal issues, the principle of development and the impact on the foul sewer network. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Legal Issues
- Principle of Development
- Water Services
- Appropriate Assessment

7.3. ***Legal Issues***

7.3.1. Concerns were raised in the appeal that the applicant does not hold the leasehold interest over the site and a letter of consent to carry out the works has not been included with the application. A copy of the leasehold has been included with the appeal. In response to the appeal the applicant has stated that they have full legal rights over the site and have submitted legal documentation.

7.3.2. Section 5.13 of the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Section 34(13) of the Planning and Development Act 2000 (as amended) states, 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'. Therefore, this issue will not be given any further consideration.

7.4. ***Principle of Development***

7.4.1. The proposed development would result in the demolition of an existing disused pump house and the provision of a hardstanding area, to facilitate vehicular turning movements. It is proposed that a portion of the site would be landscaped with gravel and planting. A new 2.8m high green palisade fence is proposed along the northern

boundary of the site, to harmonise with the boundary treatment of the adjoining property. The applicant has stated that the purpose of the development is to improve the visual amenities of the area. The subject site would not be used by HGV's and, therefore, would not result in an intensification of use within the site.

- 7.4.2. The subject site is located at the boundary of two zoning objectives, in this regard ZO8 – District Centre and ZO 16 – Mixed Use Development. Concerns are raised in the appeal that the proposed development would facilitate the intensification of a non-conforming use. It is acknowledged that the existing manufacturing facility is a non-conforming use, however, having regard to the limited scale of the works it is considered that the proposed development would not result in an intensification of the existing use and is acceptable in this instance.

7.5. ***Water Services***

- 7.5.1. It is stated in the appeal that the appellants site is still serviced by the pumping station. A letter was included with the appeal, from MMOS Consulting Engineers, which states that the existing pump house and associated infrastructure forms part of the foul sewer network. It notes that during recent works a gravity outlet was formed from the pump house to a manhole on Centre Park Road. In response to the appeal the applicant notes that all pump equipment that was housed in the structure was removed in 2017. The demolition of the existing pump house and the resurfacing of the subject site would not impact upon the operability of either the Cork Main Drainage Scheme or below ground infrastructure services. It is also noted that the location and function of the below ground infrastructure would not be altered by the development and maintenance access would be provided. Having regard to the information submitted it is my opinion that the proposed development would not negatively impact on operation of the foul sewer network and should not form the basis for a refusal of permission.

7.6. ***Appropriate Assessment***

- 7.6.1. Having regard to the nature and small scale of the proposed development within a serviced urban area and the distance from 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

It is recommended that permission be granted subject to conditions

9.0 Reasons and Considerations

Having regard to the site's location within an existing industrial area and the nature and small scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the area. 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 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 February 2019, 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. The construction and demolition of the development shall be managed in accordance with a Construction and Demolition 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

Elaine Power
Planning Inspector

12th August 2019