



An
Bord
Pleanála

Inspector's Report ABP 304391-19

Development	Demolition of 2 commercial units and construction of 1 commercial/retail warehouse unit.
Location	O'Mara's Motors, Ennis Road, Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	18/1125
Applicant	The Kilkenny Co-Ownership Partnership
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellant	Michael Butler
Observer(s)	None
Date of Site Inspection	22/07/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The proposed development site is located at the junction of the Ennis Road with Corrib Drive, approximately 2km northwest of Limerick City Centre and 250m east of the Jetland Shopping Centre. The site consists of two commercial units used for car repairs/motor factors to the rear of a mixed use scheme that includes a restaurant, take away, petrol service station, valeting business, tile shop and car sales showroom. The appeal site is accessed from the shared surface area to the western side of the complex with a rear lane also providing access from the east. The vicinity of the site can be characterised as mixed-use with a variety of retail and commercial outlets including shop units and restaurants prevalent. Páirc na nGael GAA grounds are located a short distance to the east,

The site, itself, is roughly square in shape located to the rear of the mixed use complex. The two buildings are in the eastern portion of the site accessed via a gated entrance from the shared surface area. One of the units was noted to be occupied on day of inspection. The western portion of the site is hard surfaced and fenced off with a palisade fence along its southern boundary. The remaining boundaries of this yard area are delineated by block walls.

2.0 Proposed Development

The application was lodged with the planning authority on the 20/11/18 with further plans and details received 11/02/19 and 21/03/19 following requests for further information and clarification of further information dated 22/01/19 and 07/03/19 respectively.

The proposal entails the demolition of the two commercial units on the site which have a stated floor area of c.300 sq.m. and the construction of a retail warehouse unit with mezzanine floor level with a stated floor area of 489 sq.m and height of 6.86 metres. The unit is to be accessed via the shared surface area serving the mixed use complex to the west with 14 no. parking spaces to be provided.

The building is to be finished in brick with high level signage proposed on the southern gable to be agreed prior to occupation.

Access is to be from the shared surface area to the west with the rear lane to be gated to prevent through traffic.

Storm water drainage provisions for the site provided. No attenuation is required as there will be no extra discharge of storm water.

The application is accompanied by a covering letter. It is anticipated that the future tenants will be involved in warehousing activity, retailing of bulky goods or possibly a distribution/storage unit for online goods. By way of clarification of further information it is confirmed that the unit will be not a retail unit offering small goods/convenience to passing trade. Possible tenants would trade mostly in bulky type goods.

Unsolicited information dated 07/12/18 addresses the issue of land ownership raised in the letter of objection received by the Planning Authority.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 15 conditions including:

Condition 3: the retail warehouse to be used for the sale of bulky goods or similar only. Prior to occupation of the unit full details of nature of business to be submitted for written agreement.

Condition 4: No amalgamation, subdivision or change of use to take place without planning permission.

Condition 12: Signage and sight line requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report dated 22/01/19 considers the design and scale of the building to be acceptable. Greater detail is required regarding the type of retail proposed in order to allow for assessment in terms of footfall and travel patterns within the site. Parking and circulation details required. A revised site layout

required to identify how sightlines can be achieved at the existing entrance and identifying all existing signage that is to be removed. Bin storage details required. The issue of ownership is a civil matter. A request for further information recommended. The 2nd report dated 07/03/19 following further information recommends clarification on intensity of use on site, treatment of rear lane to prevent through traffic, drainage, public lighting and signage. The 3rd report dated 15/04/19 following clarification of further information notes proposed use of the unit. Appropriate condition to be applied. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Roads Report, Operations and Maintenance Services Section recommends conditions should permission be granted. A 2nd report following further information recommends that the rear lane should not be a through lane. Details on surface water, public lighting and road markings/signage recommended. A 3rd report following clarification of further information sets out conditions should permission be granted.

Environmental Services recommends conditions addressing asbestos removal and waste management.

3.3. Prescribed Bodies

Environmental Health Officer, HSE has no comment.

Irish Water has no objection subject to conditions.

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 relate to land ownership.

4.0 Planning History

PL91.243682 (14/46) – permission granted in 2014 for change of use of ground floor unit within the complex to take away with new shop front and ancillary works.

5.0 Policy and Context

5.1. Development Plan

Limerick City Development Plan 2010, as extended, refers.

The site is located in an area zoned ZO.5(B): District Centres, the objective for which is to provide for and/or improve district centres as mixed use centres, with a primary retail function which will also act as a focus for a range of services.

Explanatory Note: These centres are characterised by a mix of convenience and comparison shopping. The quality of comparison goods shopping is generally a combination of high order and middle order, the Parkway, Caherdavin, and Roxboro function as the District Centres for the City. In addition to retail uses, District Centres will also provide a focus for other uses, including retail warehousing; retail office; commercial leisure, and services (e.g. libraries, hotels, personal and medical services) and residential uses.

As per Figure 15.1 retail warehouse is open for consideration in such a zone

5.2. Environmental Impact Assessment

Having regard to the nature and extent of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.3. Natural Heritage Designations

The Lower River Shannon SAC is 1km to the south.

6.0 The Appeal

6.1. Grounds of Appeal

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

- A Traffic and Transport Assessment is required to review the impact of the proposed development.
- There is no parking area designated for petrol tankers delivering fuel.
- No traffic management system has been drawn up eg. one way system for entering and exiting the forecourt.
- There are no cross section plans of the surface water discharge to the public sewer.
- Coupled with existing uses on the site the proposal would constitute overdevelopment.
- The appellant is the registered owner of part of the lands on which the planning application is made. His title was submitted to the Planning Authority.
- The Ennis Road retail park does not comply with its permission in that a slip road which was not adhered to is causing traffic to back up on the Ennis Road.
- Reference made to ownership of lands across the road.

6.2. Applicant Response

The submission by Adam Kearney Associates on behalf of the applicant can be summarised as follows:

- The proposal is seeking the replacement of 2 no. units with a modern purpose built commercial unit at a long established neighbourhood centre. The net increase in floor area is 189 sq.m. with the additional floorspace being attributed to a mezzanine administrative area with the footprint marginally larger than existing.
- Adequate parking is provided.
- The area does not suffer from any traffic congestion and traffic flows well at peak times. The proposal will not increase vehicular movements substantially.

- The delivery of fuel by petrol tankers to the site will not be impacted.
- The forecourt operation is not impacted and does not comprise part of the application. Staff and customer traffic to the proposed unit will access and egress directly onto the Ennis Road and will not travel across the forecourt.
- The on-site drainage infrastructure will be upgraded and diverted external of the building. The discharge point to the public stormwater system will not change.
- The site has a level of activity commensurate with a typical centre of this size in a busy suburban location. There is ample capacity for minor intensification.
- The regeneration will have a positive effect on the centre and the visual amenity of the area.
- The applicant owns the site.
- Issues pertaining to alleged boundary disputes and encroachment are essentially civil matters.

6.3. Planning Authority Response

None received.

6.4. Observations

None

6.5. Section 131 Notice

Certain prescribed bodies were invited to make an observation on the appeal on the basis that the proposal might have significant effects in relation to nature conservation.

No responses received.

7.0 Assessment

I consider that the issues arising can be assessed under the following headings:

- Compliance with Development Plan Provisions
- Quantum of Development
- Access and Traffic
- Site Services
- Other Issues

7.1. Compliance with Development Plan Provisions

The site to which the appeal refers forms part of a mixed use complex within an area zoned for district centre uses in the current City Development Plan. The plan notes that in addition to retail uses district centres will also provide a focus for other uses, including retail warehousing, retail office, commercial leisure, services and residential uses. On this basis a retail warehouse is open for consideration with the zone.

In this context the proposal to provide for such a retail warehouse unit can be considered acceptable in principle subject to other planning and engineering requirements being met.

7.2. Quantum of Development

The proposal entails the demolition of two existing commercial units previously used for car repairs/motor factors which had a floor space of in the region of 300 sq.m.

The new building will largely replicate the footprint of that existing save for a modest increase by the bringing of the front wall forward in a westerly direction. Exclusive of the floorspace at ground and mezzanine levels which are earmarked for offices, reception and ancillary uses, the retail warehouse floorspace available would equate to in the region of 335 sq.m.

In terms of parking the site is within the suburban zone and as per Table 16.1 of the City Development Plan a retail warehouse would require 1 space per 30 sq.m. (minimum). With a stated gross floor space of 489 sq.m. this equates to 16 spaces which is to be provided in the area to the front and west of the new building.

7.3. Access and Traffic

The existing mixed use complex is currently served by two access points from the Ennis Road with vehicles accessing the existing units on the appeal site entering and exiting via the western most access. There is no evidence to suggest that the current mix of uses on the site gives rise to conflicting vehicular movements and I note that the planning authority had no concerns in this regard. The existing system is to be continued with the units accessed via the western most access from Ennis Road. The forecourt operation of the filling station including fuel deliveries will not be impacted upon.

I would concur with the agent for the applicant that the proposed retail warehouse would, most likely, be a destination business rather than a unit based on passing trade and, as such, there is no evidence to suggest that the additional vehicular movements that would arise could not be accommodated within the site. On this basis I do not consider that the preparation of a Traffic and Transport Assessment is necessary or warranted. The existing access/exit arrangements from Ennis Road are considered sufficient to accommodate the proposed development with additional exit markings proposed at each, as detailed in the layout plan submitted by way of clarification of further information.

7.4. Site Services

The proposal entails the demolition of existing units and their replacement with parking proposed in the existing hard surfaced yard area to the west of same. The site is already 100% impermeable. It is proposed to upgrade the drainage infrastructure on the site which will discharge as is currently the case to the public stormwater system. Details of same are provided on the site layout plan submitted by way of clarification of further information to which the planning authority had no objection.

7.5. Other Issues

Legal Interest

Issues of site ownership constitute a material consideration in the appellant's submission. Relevant legal documentation was submitted to the planning authority in support of the objection to which the applicant responded. The said documentation is on file for the Board's information. On balance I consider that the

applicant has provided adequate detail to support his assertion that he has sufficient interest in the site to lodge the application. I consider that any further issues arising on such matters are for resolution through the appropriate legal channels. I recommend that the applicant be advised of Section 34(13) of the Planning and Development Act 2000, as amended, that a person is not entitled solely by reason of a grant of permission to carry out a development.

The matters pertaining to alleged boundary disputes on lands not subject of this application as referenced in the 3rd party appeal are not pertinent to the current case.

Signage

I note that horizontal, in addition to high level signage, is proposed to the southern elevation of the building so as to be seen from Ennis Road. The area already suffers from visual clutter arising from signage and I consider that it is appropriate to limit same as a consequence. I consider that this can be addressed by way of condition.

Appropriate Assessment

Having regard to the nature and scale of the proposed development on a fully serviced brownfield site within Limerick City and the separation distance to the nearest designated 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

Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and the assessment above 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 existing commercial use of the site and to the scale of the proposed development within an established District Centre, Zoned ZO.5(B) in the Limerick City Development Plan 2010-2016, as extended, it is considered that, subject to compliance with the conditions set out below, the proposed development

would be in accordance with the zoning provisions of the area, would not give rise to a traffic hazard or tend to create traffic congestion and would not be prejudicial to public health. 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 11th day of February 2019 and the 21st day of March 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 range of goods to be sold in the development shall be limited solely to 'bulky goods' (as defined in Annex 1 of the Guidelines for Planning Authorities Retail Planning issues by the Department of the Environment, Community and Local Government in April, 2012.

Reason: In order to protect an adverse impact on the viability and vitality of the established retailing facilities within this area and so as not to undermine the retail hierarchy of the area.

3. No subdivision of the unit shall take place without a prior grant of planning permission.

Reason: To control the layout and scale of the development in the interest of protecting the vitality and viability of the area.

4. Details of the materials, colours and texture of all the external finishes to the proposed building shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

5. (a) Details of all signage to be erected on the proposed building shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

(b) the high level sign as delineated on the proposed front (roadside) elevation drawing accompanying the application shall be omitted.

Reason: In the interest of visual amenity

6. 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.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing, with the planning authority prior to commencement of development. The plan shall be 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.

Reason: In the interest of sustainable waste management.

8. 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 working and noise management measures.

Reason: In the interests of public safety.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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

July, 2019