



An
Bord
Pleanála

Inspector's Report ABP 304441-19

Development	Standalone restaurant unit and community room.
Location	Crescent Shopping Centre, Dooradoyle, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	18/1239
Applicant	Liffey Blue ARC UC
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	(1) 3 rd Party v. Grant (2) 1 st Party v. Conditions
Appellant	(1) Thomas O'Sullivan (2) Liffey Blue ARC UC
Observer	Limerick Chamber
Date of Site Inspection	22/07/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.16 hectares, is located within the Crescent Shopping Centre grounds immediately to the west of the City Mall entrance on the north elevation of the building. The Crescent Shopping Centre is in Dooradoyle in the southern environs of and c. 2.8km from Limerick city centre.

The site is a hard surfaced area comprising of loading, circulation and parking spaces. A significant portion of the site is demarcated by a yellow box precluding car parking with double yellow lines to the east and north of the City Mall entrance. There are a number of loading areas and substations in the building immediately adjoining.

McDonalds restaurant and drive through is a single storey free standing building within the carpark area to the north-west of the site.

The main vehicular entrance to the shopping centre is via 2 no. signalised junctions off Dooradoyle Road to the south west with a further 2 no. left in junctions off Dooradoyle Road and St.Nessan's Road.

2.0 Proposed Development

The application was lodged with the planning authority on the 18/12/18 with further plans and details received 21/03/19 following a request for further information dated 19/02/19.

As amended the proposal entails the construction of a freestanding two storey building with an overall floorspace of 568 sq.m. comprising of:

- Restaurant on two levels with a floor area of 349 sq.m.
- Community room at 1st floor level with a floor area of 173 sq.m.

The proposal will result in the loss of 8 no. surface parking spaces and ancillary works. It will provide for public realm works to complement those around the City Mall entrance. It will also provide for a servicing corridor to the rear to serve both the restaurant and the existing service doors of the centre.

The restaurant is not for an existing restaurant use within the shopping centre. The community room is an additional ancillary floorspace and does not propose the displacement of any existing unit or use within the centre.

The application is accompanied by:

- Planning Report
- Engineering Planning Report
- Transportation Statement
- Architectural Design Statement
- Screening Report for Appropriate Assessment

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 11 conditions. Of note:

Condition 3: Details of operator of restaurant unit to be submitted for written agreement. The proposal shall not displace any existing unit or use in the shopping centre.

Condition 4: Community room not to displace any existing unit or use in the shopping centre.

Condition 6: Public lighting design to be submitted within 1 month of grant of permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report (countersigned) dated 15/02/19 considers that the proposal accords with the relevant policies and objectives as set out in the County Development Plan and the LAP. The design is in keeping with the masterplan for the reconfiguration of this elevation. A request for further information recommended on occupier of new restaurant unit, confirmation that the community room will not

displace any existing unit in the centre, means of escape from the community room and access by emergency vehicles.

The 2nd report dated 12/04/19 following FI states that having regard to the nature of the proposal, its layout and extent and compliance with development plan and LAP policies and objectives the proposal is acceptable. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Fire Service in an email dated 25/01/19 requires further information. The 2nd email dated 26/03/19 following FI recommends conditions should permission be granted.

Environmental Services in an email dated 29/01/19 recommends a condition requiring a site specific waste management plan for the construction phase should permission be granted.

Roads Section in an email dated 31/01/19 recommends conditions seeking mobility management plan, public lighting and surface water disposal.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

Environmental Health Officer, HSE in a report dated 11/04/19 has no observations subject to a condition should permission be granted.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to impact on city centre, density of restaurants, concealment of existing signage and service access.

4.0 Planning History

The planning history within the shopping centre is detailed in the planner's report on file.

5.0 Policy and Context

5.1. Limerick County Development Plan 2010 (as extended)

Policy ED 13

(1) In relation to Dooradoyle (Crescent Shopping Centre)

(a) Encourage reinvestment, upgrading and limited expansion of retail floorspace...where it does not alter its role and function with respect to Limerick City Centre and the retail hierarchy.

(b) Allow additional floorspace for ancillary facilities such as banks and other financial services, restaurants and public houses, offices and leisure, social and community uses.

5.2. Southern Environs Local Area Plan 2011 (as extended)

The site is within an area zoned for retail/commercial the objective for which is to protect and enhance the character of the Southern Environs retail centres and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to these centres. Any proposed retail development shall be in accordance with the provisions of the Retail Strategy for the Mid West Region.

In such a zone restaurant and community hall functions are generally permitted. A community hall for recreation use is open for consideration.

The Crescent Shopping Centre is a Tier 2 Level 1 retail centre within the Limerick Metropolitan Area.

Objective ED7 is the same as County Development Policy ED 13 above.

5.3. Retail Strategy for the Mid-West Region 2010

The policy for the Crescent Shopping Centre is the same as objective ED7 in the LAP and Policy ED13 of the County Development Plan.

5.4. Natural Heritage Designations

None in the vicinity

5.5. Environmental Impact Assessment

Having regard to the nature and extent of the proposed development and the receiving environment 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. 3rd Party v. Grant

The submission can be summarised as follows:

- The addition of a new outlet for a global restaurant chain risks changing the role of the shopping centre. More shoppers will inevitably be drawn to the centre and away from the city centre. This increased footfall will lead to increased demand for retail space in the centre, further pressuring retailers in the city centre.
- Describing the proposed restaurant chain as an ancillary facility to the shopping centre fundamentally misunderstands the current nature of shopping at shopping centres. Restaurants have a growing importance to such centres.
- The differentiation between retail and ancillary floorspace is misleading as both now act as a draw to shoppers and represent expansion of the offerings of the centre.
- The proposal is incongruous with the stated development plan aim of Limerick city centre recapturing trade lost to the Crescent Shopping Centre.
- Limerick City and County Council has commissioned a series of economic and retail strategy reports which all point to the need to limit further development at the Crescent Shopping Centre in order to re-establish the city centre at the top of the retail hierarchy.

- The shopping centre and its immediate environment of Raheen, Mungret and Dooradoyle is already served by restaurants, bars serving food, fast food with sit down areas and cafes.
- No new parking spaces are proposed to serve the development. The shopping centre is already under pressure in terms of parking.
- No mention is made of the provision of additional disabled parking.
- The development will obscure the external signage of one of the major retailers which will have to be relocated.

6.1.2. 1st Party v. Conditions

The submission by John Spain Associates on behalf of the applicant can be summarised as follows:

Condition 3: Details of operator to be submitted and proposal not to displace any existing unit or use within the centre.

- The condition is unnecessary. The further information response on the application noted that the proposed occupant had agreed terms with the developer subject to a favourable decision. It was not appropriate to provide details of the occupant at that stage. It was confirmed that the intended occupant would be consistent with the proposed restaurant use and that the proposed occupant was not currently in the shopping centre.
- Any occupant would be required to be compatible with the permitted use.
- Requiring agreement regarding the occupant is unreasonable as it provides the planning authority with an undue level of commercial control.
- The wording of the condition is such that it may be interpreted that any existing occupant of the centre may be restricted from movement among units which is unreasonable as any occupant of a unit would be required to be compatible with the permitted use. Otherwise a separate grant of permission would be required for a change of use.
- The condition should be omitted or reworded. Suggested rewording set out.

Condition 4: Community Room not to displace any existing unit or use in the centre.

- The concerns as expressed about condition 3 above are largely similar in this instance.
- As per the further information response it was confirmed that it was not proposed to displace any existing unit or use within the centre. It is not designated for and will not be used as a drop in childcare centre.
- The wording of the condition is such that it may be interpreted that any existing occupant of the centre may be restricted from movement among units which is unreasonable as any occupant of a unit would be required to be compatible with the permitted use. Otherwise a separate grant of permission would be required for a change of use.
- The condition is unnecessary and should be omitted.

Condition 6: Public lighting design

- The timeline of 1 month for submission of a public lighting scheme is restrictive. It is recommended that such details be submitted prior to commencement of development.

6.2. Response to Cross Circulation of Appeals

A response from John Spain Associates on behalf of the applicant to the 3rd party appeal was received which can be summarised as follows:

6.2.1. District Centre Role

- The proposal does not provide for any additional retail floorspace and will not increase the retail offer in the shopping centre. The proposal will not alter the position of the city centre in the retail hierarchy.
- The proposal is consistent with the shopping centre status at Level 1 of Tier 2 of the retail hierarchy for the Limerick metropolitan area.
- The limited scale of the proposal is such that the role and function of the shopping centre will not be altered and it will contribute to the upgrading of the existing centre. It will make a modest contribution to improved facilities for

customers at the centre as well as catering for the working population in the centre and wider Dooradoyle area.

- It will deliver an extension and enhancement of the restaurant quarter and the high quality public realm environment. It will provide an improved active edge to the City Mall side of the centre
- The proposal accords with the relevant policies and objectives for the shopping centre as set out in the Mid West Retail Strategy, County Development Plan and South Environs LAP in which additional floor space for ancillary facilities such as restaurants, social and community uses are permissible.
- The restaurant will not be a primary draw to the centre in its own right.
- Retail floorspace and ancillary floorspace are clearly separate in planning terms.

6.2.2. **Parking Provision**

- The number of parking spaces proposed for the centre after the construction of the proposed development meet with the Development Plan parking standards.
- Regard is had to the permission granted under ref. 16/241 for an extension to the centre which excluded the provision of additional parking spaces by way of condition.
- The loss of 8 parking spaces is minimal in the overall context. The centre is well served by public transport and existing parking provision.
- It is unlikely that the proposal will attract significant visitors to the centre as the restaurant unit is provided to improve facilities and increase dwell time for existing patrons and those within the catchment of the centre rather than attract new custom.
- The community use is most likely to be in use during quieter times such as midweek daytime.
- An extension to the existing bicycle shelter is proposed.
- The section of the car park adjoining the new unit is a low speed area with limited flows and the potential for cars to stop and drop off. There are a number of parking cul-de-sacs where vehicles can pull in to drop off if

required. It is submitted that a dedicated set down zone adjoining the unit is not necessary.

- Accessible parking spaces are currently provided adjoining the City Mall entrance c. 50 metres from the community use entrance. The applicant is willing to provide a dedicated accessible space in front of the unit in place of a pair of regular spaces if required by the Board.

6.2.3. **Other Issues**

The obscuring of existing signage is a minor implication of the proposal which will provide improvements to the public realm and general appearance to this side of the centre.

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

The submission from Limerick Chamber which refers to the proposed restaurant, only, states that whilst welcoming all retail development it has a preference to see new retailers setting up operations in the city centre rather than in the suburbs.

6.5. **Further Responses**

The applicant's response to the 3rd party appeal was circulated to the relevant parties by way of a section 131 notice. No responses received.

7.0 **Assessment**

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

- Acceptability of proposal and compliance with policy provisions
- Carparking
- 1st Party Appeal against Conditions

- Other Issues
- Appropriate Assessment

7.1. Acceptability of Proposal and Compliance with Policy Provisions

The site is within the curtilage and will form part of the Crescent Shopping Centre which is designated as a Level 1 Tier 2 District Centre in the Mid-West Retail Strategy. The provisions of the said retail strategy, the County Development Plan 2010 (as extended) and the Southern Environs LAP (as extended) align in that they seek to encourage reinvestment, upgrading and limited expansion of the retail floorspace in the centre where it does not alter its role and function with respect to Limerick City Centre and the retail hierarchy. The said policy provisions also allow for additional floorspace for ancillary facilities in the centre such as banks and other financial services, restaurants and public houses, offices and leisure, social and community uses. Policy ED 13 of the County Development Plan and Objective ED7 of the LAP refer.

In terms of the relevant zoning provisions as set out in the LAP, the site is within an area zoned for retail/commercial, the objective for which is to protect and enhance the character of the Southern Environs retail centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre. In same a restaurant and community facility are generally permitted.

The proposed development entails a two storey restaurant unit in addition to a community room. They are appropriately described as ancillary facilities as provided for in the policies and objectives set out above and do not constitute retail floorspace. In principle, therefore, the proposal is acceptable and will not alter the role or function of the centre in the context of its place in the retail hierarchy or impact adversely on the primacy of the city centre in terms of retail. It will provide for an expansion and improve the range of services for patrons to the centre. As per the details accompanying the application the restaurant will add to the creation of a restaurant quarter in the centre whilst the community room will be made available to local clubs and societies and will be a multi-purpose space. The agent for the applicant confirms that the room will not be used as a drop in childcare centre.

The building design will provide for and improve the active frontage on this section of the northern elevation of the shopping centre with outdoor seating and landscaping

works proposed which will complement the public realm improvement works undertaken in the vicinity of the City Mall entrance.

The appellant expresses concern as to the number of restaurant uses within the centre and the potential to impact on existing facilities in the vicinity. I would suggest that the potential impact of the proposal on existing food outlets would simply be that of competing businesses. It is not the role of the planning process to inhibit commercial competitiveness.

7.2. Carparking

The proposal will result in the loss of 8 parking spaces and will require modifications to the internal circulation routes for both patrons and service vehicles. No additional car parking is proposed.

As per the Transportation Statement that accompanies the application the existing centre is served by 2235 parking spaces. 1770 are provided at grade and 465 in a basement car park. Table 1 of the statement sets out the car parking requirements of the centre based on the parking standards in the 2010 County Development Plan with a 10% reduction allowance for cross visitation. 2174 spaces are required. As such there is an over provision of 61 spaces.

As per Table 10.5 of the development plan which details vehicle parking requirements the restaurant would require 1 space per 8 sqm. which equates to 44 spaces. No parking standard for a use comparable to the community room is listed in the table. Thus, coupled with the loss of 8 parking spaces to facilitate the new build, a shortfall of 52 spaces is estimated which is less than the overprovision calculated.

Taking into consideration the already generous parking provisions and propensity for linked trips and shared usage (eg. certain uses would have their greatest demand in the evening time, such as the cinema, which would not correspond with the peak hours for the retail component) I am satisfied that the existing parking provision is adequate to serve the new development and additional parking is not required.

Additional disabled parking is not considered necessary with existing provision in the vicinity of the said Mall entrance noted. I note additional cycle parking spaces are to be provided, also in the vicinity of the City Mall entrance.

There are a number of access/egress points to the centre with vehicular speeds noted to be low with dedicated internal pedestrian facilities in terms of crossings etc. In the context of the vehicular movements generated by the existing centre the additional movements arising from the development would not be expected to have any material impact on prevailing traffic conditions. The shopping centre has an active Mobility Management Plan which is to be extended to the operators of the restaurant.

7.3. 1st Party Appeal against Conditions

The applicant has appealed three conditions attached to the planning authority's notification of decision to grant permission.

Condition 3 requires details of the operator of the restaurant to be submitted and the operator not to displace any existing unit or use within the centre.

As noted by the agent for the applicant any occupant of the unit will be required to be consistent with the restaurant use for which permission is being sought. On this basis I submit that the necessity for details of same to be submitted prior to commencement of development is not warranted. I would also concur with the view that the requirement that the occupant does not come from an existing comparable unit within the centre is unreasonable. Any occupant of unit(s) within the centre will be required to be consistent with the permitted use. I also consider that the suggested rewording of the condition to be unnecessary as any change of use of the unit would require a prior grant of permission.

On this basis I recommend that condition 3 be omitted.

Condition 4 requires that the community Room does not displace any existing unit or use in the centre. As above the requirement that the occupant does not come from an existing comparable unit within the centre is unreasonable. Any occupant of unit(s) within the centre will be required to be consistent with the permitted use. On this basis I recommend that the condition be omitted.

In terms of condition 6 I consider that the requirement to submit a public lighting scheme within a month of the decision to be restrictive. Its submission for agreement prior to commencement of development is considered appropriate. I recommend that the condition be amended accordingly.

7.4. Other Issues

Indicative details are provided in the plans submitted by way of further information as to the alternative location for signage on the existing shopping centre building which will be obscured by the proposed development.

Details of the signage to be erected on the proposed building should be required by way of condition.

7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the distance 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

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 nature and scale of the proposed development within an established district centre zoned for retail and commercial purposes in the current South Environs Local Area Plan, 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 be acceptable in terms of traffic safety and convenience and would not create any serious traffic congestion. 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 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. No amalgamation of units or subdivision of any 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.

3. 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 visual amenity.

4. Details of the materials, colours and textures 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. 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.

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

6. 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.

7. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

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

8. The developer shall control odour emissions from the premises in accordance with measures including extract duct details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the 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 hours of working and noise management measures.

Reason: In the interest of public safety.

10. 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 the 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

August, 2019