



An
Bord
Pleanála

Inspector's Report

ABP-304497-19

Development	Permission for variations and omissions made under original planning permission ref. no. 10/560004
Location	Texaco/Spar, John Street, Carrick-on-Suir County Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	18600932
Applicant(s)	H2 Properties Ltd.
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Gerry Connors
Observer(s)	None
Date of Site Inspection	1 st of August 2019.
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The site is a filling station/ shop, located in Carrick-On-Suir town on Greenside South, which is a street forming an urban section of the N24 (Waterford- Limerick Route). It is currently a Texaco station and it includes a Spar convenience store.
- 1.2. It is located at the junction of Greenside South and Kickham Street, with the canopy of the petrol filling station creating a noticeable feature on the streetscape. There is a tall advertisement sign along the road frontage located between two separate entrance and exit access points.
- 1.3. To the immediate west there is a public house owned by the third party appellant, which is two storey. To the immediate south, is a dwelling.
- 1.4. The site is a compact urban site, 0.1630ha. There is parking to the rear of the shop and to the side of the forecourt area.
- 1.5. The Spar shop has a contemporary design with quality finishes.

2.0 Development

- 2.1. The development consists of retention for changes to as constructed development that was permitted under planning reference No. 10/560004. These changes include the following:
 - Omission of jet wash and roll over car wash,
 - A new fuel pump and water service island,
 - Steel bollards along roadside boundary inside of a wall
 - Fuel vents in a different location on the southern boundary wall
 - Carpark layout variation on eastern side of site
 - Alterations to elevations
 - Part use of ground floor space as café
 - Amendments to storage compound at the rear
 - Placing of air conditioning units mounted at roof level behind stone screen.

3.0 **Planning Authority Decision**

3.1. **Decision**

Tipperary Co. Co. granted planning permission for retention of the as constructed development subject to 5No. standard planning conditions.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

Report No. 1: recommended ***Further Information*** be requested:

- Accurate ownership boundaries;
- Lack of information regarding on finishes on items and the as-constructed services
- Outlet pipe

The response was received on 8th of March 2019. The drawings and map state the works, pipes and works are all carried out on the applicant's landholding, therefore no consent is required.

Recommendation to grant permission.

3.2.2. **Other Technical Reports**

There were no objections to the proposed development from the internal departments such as Road Design, Water Services and the EHO.

3.3. **Third Party Observations**

Gerry Connors objected to the development on the following grounds:

- Access to the gable of the property has been blocked off
- Water and air conditioning infrastructure
- Built onto adjoining property.

4.0 **Planning History**

The original permission for the development on site was granted under planning reference 10/560004, which included a new shop (462sq.m.), and the redevelopment of the existing filling station.

A Warning letter issued under Planning Enforcement case TUD-17-134, for non-compliance with the parent permission.

5.0 **Policy Context**

5.1. **Development Plan**

The site is zoned **Town Centre** in the Carrick On Suir Development Plan 2013 (as varied), and this objective is to preserve, enhance and/ or provide for town centre facilities. Proposals for development on lands zoned for town centre should comprise of mixed use developments consisting of a combination of retail, office, service, community and/or residential use.

5.2. **Natural Heritage Designations**

Within 15Km there are the following Natura 200 sites:

Lower River Suir SAC

Hugginstown Fen SAC

Commeragh Mountains SAC.

The site is within the drainage catchment of Lower River Suir SAC 002137 and is located 1km from the Lower River Suir SAC.

The Hugginstown Fen SAC and Commeragh Mountains SAC are outside of zone of influence.

5.3. **EIA Screening**

Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest 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

The owner of the neighbouring public house has taken this appeal. The following is a summary of the grounds of appeal.

- The works carried under planning reference 10/560004 were not carried out in accordance with Section 34(13) of the Planning and Development Acts 2000-2015.
- The development infringes on his property, and this was pointed out to Tipperary Co.Co. but it granted permission for development.
- Access to the gable end of his property has been blocked off. There was no building abutting his property previously, and he cannot maintain his gable wall. The kitchen and shower room outlet pipe are located at this gable.
- Water from the air conditioning unit is piped directly onto his property.
- Part of the building is on his property
- The flashing from their wall is onto the roof of his building.

There are photographs and drawings submitted with the appeal to demonstrate the extent of the above.

7.0 Assessment

- 7.1. The overall development was acceptable in principle and design under planning reference P10/560004. This current planning application is for retention of omissions and alternations to the parent permission for the development of a new shop and forecourt area on the site.

- 7.2. The third-party appeal substantially relates to enforcement issues and civil matters which are beyond the remit of the Board. The submission drawings indicate all works were carried out within the boundaries of the applicant's landholding.
- 7.3. The grounds of appeal relating to a gable wall that was permitted in 2010 is not the subject of the current application. This issue should have been dealt with under the original permission. I accept the third-party appellant did not own the neighbouring property when the parent permission was granted, however the merits of the case were assessed, and the planning authority granted permission for the development alongside the gable wall, which is acceptable in town centre areas. The sewer pipe in question is on the third party's property, therefore, it is beyond the site boundaries of the appeal.
- 7.4. The ground of appeal relating to the proposed development encroaching onto his property is a civil matter between the parties. There should be a condition attached that all surface water associated with the development and the overflow pipes associated with the development, should not discharge onto the adjoining properties and be contained and collected within the site boundaries.

7.5. **Appropriate Assessment**

Having regard to the nature and scale of development proposed together with the nature of the appeal, relating to retention of omissions and alterations to a constructed development, and to the nature of the receiving environment, which is a town centre location with public sewers and a surface water sewerage system, 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 permission be granted subject to the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the permitted development on the site and to the nature, scale, design, character and layout of the development, it is considered that the development would not adversely impact on the amenities of adjoining properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 to the planning authority on the 24th of July 2018 and 8th 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. Water supply and drainage arrangements, including the disposal of surface water and the management of fats, oils and greases, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

3. All surface water, including discharge from outflow pipes shall be collected and contained within the site boundaries, and shall not discharge onto neighbouring properties.

Reason: In the interest of protecting adjoining amenities and property.

4. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at any point along the boundary of the site shall not exceed:-
- (i) An Leq,1hour value of 55 dB(A) during the period 0700 hours to 1900 hours from Monday to Sunday inclusive.
 - (ii) An Leq,1hour value of 50 dB(A) during the period 1900 hours to 2300 hours from Monday to Sunday inclusive.
 - (iii) An Leq,15 minutes value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Procedures for the purpose of determining compliance with these limits shall be submitted to, and agreed in writing with, the planning authority within one month of the date of this Order.

Reason: To protect the residential amenities of property in the vicinity of the site.

5. 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 within three months of this decision. 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.

Caryn Coogan
Planning Inspector

2nd of September 2019