



An
Bord
Pleanála

Inspector's Report

ABP-305022-19

Development

Permission for the sub-division of former Bank of Ireland site and temporary retention for 3 years for the use of the sub divided area of the site previously used for parking associated with a commercial/office premises, as a public pay car park with associated pay/ticketing machine, barrier and signage, all with associated site development works.

Location

Former Bank of Ireland Building,
Parnell Street/The Applemarket,
Waterford

Planning Authority

Waterford City and County Council

Planning Authority Reg. Ref.

19321

Applicant(s)

Sean Johnston.

Type of Application

Sean Johnston

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)	Sean Johnston
Observer(s)	none
Date of Site Inspection	27 th September, 2019
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The site is located to the rear of a two storey commercial / office building on Parnell Street in Waterford City. The area which is the subject of this referral was previously in use as a car park to serve the Bank of Ireland premises that fronted onto Parnell Street to the east of the site. The bank use on the site has now ceased and the car park is now being operated as a private commercial pay and display car park operated by i Pairc. .
- 1.2. Access to the car parking area is from Spring Gardens to the west of the site. There is a barrier located at the entrance to the site. The area at the western side of the site has been the subject of recent redevelopment with the triangular shaped open space area known as the Applemarket redeveloped with new paving and the addition of a canopy that covers the majority of the space. The project was developed as part of Waterford City Council's Urban Renewal Scheme. The Applemarket space is a pedestrian area, however one way vehicular access is available along the western side of the site via John Street and Spring Gardens Alley. Traffic accessing the site via this route then leaves via the north side of the Applemarket and onto New Street.
- 1.3. The site is bounded to the south by residential properties that front onto John's Avenue with commercial premises at the south west and north west corners. To the north, the site adjoins residential properties fronting onto Spring Garden Alley at the north east corner of the site and school lands further to the south east.
- 1.4. The site is currently laid out as a car park and accommodates a total of 32 no. spaces. Access to the site is controlled via a barrier and there is a ticket machine close to the site entrance for the payment of parking charges. The car park is unmanned and is accessible 24/7.
- 1.5. The stated area of the appeal site is 0.15338 ha.

2.0 Proposed Development

- 2.1. The development for which permission is sought is the retention of the sub division of the site with the car parking area to the rear of the former bank building separated from the building fronting onto Parnell Street. The permission sought is also for the retention for a three year period of the sub divided area currently in use as a pay and display car park as well as associated pay / ticketing machine, signage, barrier and associated site development works.
- 2.2. The application states that the commercial / office use of the existing office building on the site which fronts onto Parnell Street is proposed to remain unchanged.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to refuse Permission for a single reason that can be summarised as follows:

1. That the retention of the use of the site as a pay and display car park in an area of high pedestrian activity and public realm improvements would result in a development that would endanger public safety by reason of a traffic hazard and obstruction of road users.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the planning history of the site and the internal reports received and specifically that from the Roads Department. The fact that the site is located in an area where significant urban re development and public realm improvements have been undertaken is noted as is the increased pedestrian movements in the area, the proximity of the site entrance to a residential street to the north (Spring Garden Alley) and whether the use as a car park represents an efficient use of urban land. Refusal of permission consistent with the notification of decision which issued is recommended.

3.2.2. Other Technical Reports

Roads Report – e mail report on file states that the Roads Department are not in favour of a car park in this location and that such a use would be incompatible with the operation of Applemarket area.

There is reference in the report of the Planning Officer to an internal report from the Water Services Section of the council. No such report appears to be on the appeal file. Given the nature of the proposed development it is not considered

4.0 Planning History

The following is a summary of the main planning history relevant to the assessment:

- Waterford City and County Council Ref. 19322 – concurrent application submitted at same time as application the subject of current appeal for the change of use of former ATM service facility to the rear of site from office / service use to use as a café and for the provision of signage to the frontage to the Applemarket. Permission granted subject to conditions on 7th July, 2019.
- Waterford City and County Council Ref. 17559 – Incomplete application for new signage on the Bank of Ireland Premises. There is no record of a decision being made on this application.
- Waterford City and County Council Ref. 14600082 – Permission granted by the Planning Authority for alterations to the elevations of the Bank of Ireland premises with the addition of new signage.

The following referral cases relate to the appeal site:

- Waterford City and County Council Ref. D52017/38; ABP Ref. ABP-300397-17 – Determined by the Board that the use as a public pay car park of an area previously used for parking associated with a commercial / office premises at the former Bank of Ireland premises, Parnell St. / The Applemarket, Waterford is development and is not exempted development. Noted that one of the conclusions reached by the Board as set out in the Board Direction was that *'the change of use of the land to car parking with a daily or hourly basis for charging, is likely to generate an increased intensity of use which is materially different to the use as parking incidental to the primary commercial / office*

use, due to alterations to the level and pattern of traffic and hours of operation'.

- Waterford City and County Council Ref. D52017/37; ABP Ref. ABP-300396-17 – Determined by the Board that the replacement of existing barrier and addition of pay / ticket machine to existing car park, at former Bank of Ireland premises, Parnell St. / The Applemarket, Waterford is development and is not exempted development by virtue of the fact that the works are facilitating an existing public pay and display car park which is unauthorised.
- Waterford City and County Ref. 2019/150 - There is reference in the report of the Planning Officer to a pre application consultation being held relating to a proposed hotel development on the site to the rear of No.20 Parnell Street.

5.0 Policy Context

5.1. Development Plan

The site is zoned City Centre Commercial under the provisions of the *Waterford City Development Plan, 2013-2019* with the stated objective *'to protect, provide and improve city centre commercial uses'*.

The site is located in an area identified as a general conservation area which encompasses the majority of the city centre. It is not located within an architectural conservation area.

The eastern side of the site is located within an identified area of flood risk. The extent of this area does not extend into the car parking area which is the subject of this referral.

5.2. Natural Heritage Designations

The site is not located within or in close proximity to any European site.

5.3. EIA Screening

Having regard to the limited scale of the proposed development and the existing and historical use of the site for car parking 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 following is a summary of the main issues raised in the first party appeal:

- That the car park has no or limited effect on its surroundings as it has always been used by the public as part of the existing bank use.
- No alterations have been made to the car park or its entrance and recent public realm improvements and revised traffic flow scheme implemented by the council incorporated the existing car park entrance. The development was not therefore seen as endangering public safety so not clear why this would have changed when no development has taken place.
- That no additional car parking spaces have been created.

6.2. Planning Authority Response

No response on file.

6.3. Further Responses

Details of the appeal were circulated to An taisce, the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht, An Chomhairle Ealaíon, the Heritage Council and Fáilte Ireland. No response to these circulations has been received.

7.0 Assessment

7.1. The following are considered to be the main issues relevant to the assessment of the appeal:

- Principle of Use,
- Intensity of Use and Traffic Safety Issues,
- Other Issues
- Appropriate Assessment.

7.2. Principle of Use,

7.2.1. The appeal site is located on lands that are zoned City Centre Commercial under the provisions of the *Waterford City Development Plan 2013-2019* with the stated objective '*to protect, provide and improve city centre commercial uses*'. Section 12.12 of the plan sets out the nature of the new uses or new developments that will normally be permitted in each zone. It is stated that uses listed in the schedule under each zone are generally acceptable in principle in the relevant zone and that these schedules are intended as a guideline and are not intended as being exhaustive and other uses would be considered on their merits. Section 12.14 relates to non-conforming uses and states that all legally established non-conforming uses would not be subject to proceedings under the planning acts and that when extensions or improvements to these uses are proposed they '*shall be considered on its merits and permission may be granted where the proposed development does not adversely affect the amenities of premises in the vicinity, generally complies with the particular use zoning objectives and does not prejudice the proper planning and development of the area*'.

7.2.2. Section 12.16 paragraph 3 sets out the normally permitted new uses or developments on lands zoned for city centre commercial. Car parking is not included within this list of uses. While I note the fact that the area of the appeal site is currently in use as a car park and has historically been used for this purpose, it is also noted that the established and permitted car parking use on the site was in association with or ancillary to the main commercial use of the site and the

commercial building that fronts onto Parnell Street most recently occupied by Bank of Ireland. The current proposal is for the car parking area to be separated from the overall site and has been determined by the Board to constitute a material change of use in the site for which permission is required (see ABP- 300397-17) with the result that the commercial car parking use is effectively a new one on the site. A new car parking use on the site is not consistent with the uses that would normally be permitted on lands zoned City Centre Commercial.

7.2.3. I note that the report of the Planning Officer makes reference to the fact that the separation of the car park from the commercial use on the site, and the use as a surface car park would not appear to be consistent with the sustainable and most efficient use of city centre urban land. I would agree with this general assessment. While the site was previously used for surface car parking, this was associated with a commercial use on the site and was undertaken as part of an overall development of the site at a different time and in a different planning context to the present. The separation of the car parking area from the rest of the site as proposed in the subject application creates a new site which, in my opinion, could be more efficiently and appropriately used and in a manner that would be more consistent with the zoning objective *'to protect, provide and improve city centre commercial uses'*.

7.2.4. I note that while the issue of the efficient use of the site is referenced in the report of the Planning Officer that the proposed public car parking use is not specifically addressed in relation to the permitted uses listed in chapter 12 of the development plan. Refusal of permission on the basis of in compatibility with the land use zoning objective could therefore be considered to constitute a new issue in this case.

7.3. Intensity of Use and Traffic Safety Issues,

7.3.1. The main basis for the refusal of permission by the Planning Authority relates to the potential increase in conflicts between vehicular traffic and pedestrians who are attracted to the Appleyard area, particularly now on completion of the redevelopment and public realm improvements in the area. The case made by the first party appellant is that the site has always been used as a car park, that the number of parking spaces provided remains unchanged and that this existing use has been recognised and established by the maintenance of access to the car park as part of

the Appleyard development. I consider that there are two main issues that arise relating to these issues.

- 7.3.2. Firstly, the council has invested significant resources in the redevelopment of the Appleyard area with the re paving of the area, the provision of the canopy and the pedestrianisation of significant parts of the area. Vehicular access has had to be retained to service existing premises in the area, including the appeal site, however this traffic is now led along the eastern and northern side of the Appleyard area with a one way system established leading from John Street, up the east side of the public space and across the northern side exiting via New Street. The redevelopment of the area has resulted in the attraction of new uses, retail outlets and additional pedestrians to the area and therefore increased the potential conflict between pedestrians and vehicular traffic in this location.
- 7.3.3. Secondly, as recognised by the Board in the recent referral case relating to the use of the site as a commercial car park (ABP Ref. ABP-300397-17), the change of use of the land to car parking with a daily or hourly basis for charging, is likely to generate an increased intensity of use which is materially different to the use as parking incidental to the primary commercial / office use, due to alterations to the level and pattern of traffic and hours of operation. The first party is correct that the proposed change of use to a commercial car park would not result in additional parking spaces being created or changes to the access and egress arrangements, however, it is my opinion that the nature of the pay and display short term parking use proposed is such that there would be an increase in the level of vehicle movements to and from the site with resulting potential impacts in terms of vehicle and pedestrian conflicts.
- 7.3.4. The public realm improvements and increased attractiveness of the area for pedestrians, together with the increased intensity of use of the car park would in my opinion combine to result in an increased potential for conflicts between pedestrians and vehicular traffic. This increased potential for conflicts would in my opinion endanger public safety by reason of traffic hazard and obstruction of road users, would be incompatible with the intended use of the re developed Applemarket area and would be contrary to the proper planning and sustainable development of the area.

7.4. Other Issues

- 7.4.1. The existing commercial pay and display car parking on the site has significant signage installed on both sides of the entrance and above the entrance. Notwithstanding the fact that the site is not located within an architectural conservation area, it is considered that given its location fronting onto the redeveloped Appleyard space, the extent and design of signage is excessive. This signage is proposed for retention as part of the application. In the event that a grant of permission was being considered, it is recommended that the extent of existing signage would be reduced by way of condition.
- 7.4.2. I note the concerns expressed in the report of the Water Services Department regarding storm and surface water disposal and the recommendation for further information. In the event that a grant of permission was being considered this issue would require further consideration by way of further information or condition.

7.5. Appropriate Assessment.

- 7.5.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations:

9.0 Reasons and Considerations

1. Having regard to the public realm improvements and revised traffic scheme implemented in the area which has increased attractiveness of the area for pedestrians, and the increased intensity of use of the car park which would arise, it is considered that the retention of the public pay and display car park use would result in an increased potential for conflicts between pedestrians and vehicular traffic and an overall reduction in the attractiveness of the Applemarket area. The proposed retention of the public pay and display car parking use would therefore endanger public safety by reason of traffic hazard and obstruction of road users, would be incompatible with the intended use of the re developed Applemarket area and would be contrary to the proper planning and sustainable development of the area.
2. The retention of the public pay and display car parking and sub division of the site introduces a new use for the site which is not included in the schedule of permitted uses on lands zoned City Centre Commercial listed in paragraph 12.16 of the Waterford City Development Plan, 2013-2019 and a use which is inconsistent with the efficient use of city centre brownfield lands. The proposed change of use and sub division of the site would therefore be contrary to the land use zoning objective for the site which is '*to protect, provide and improve city centre commercial uses*' and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector

23rd October, 2019