



An
Bord
Pleanála

Inspector's Report

ABP-305394-19

Development	Modifications to car sales premises, Construction of a single storey building to provide sales offices, staff facilities, small car showroom (2 cars).
Location	Glennascaul, Oranmore, Co Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	181879
Applicant(s)	Kieran Moran
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Kieran Moran
Observer(s)	None
Date of Site Inspection	13/12/2109
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site, an existing Car Sales and Service business, is located on the eastern side of the R381, a regional road running between the N6/M6 to the north and the N67 to the south.
- 1.1.2. The existing premises comprises a large area of hardstanding, currently used as car parking / sales area, three pre-fabricated offices, a car valet unit and a car servicing unit. A number of 'for-sale' cars were parked on the hard shoulder, on the date of my site visit. The applicant's family home lies immediately to the north of the subject site.

2.0 Proposed Development

- 2.1.1. On the 21st December 2018, planning permission was sought for the demolition of an existing single storey motor service workshop and the construction of a single storey (154.9sq.m.) building to comprise a sales office, showroom, workshop and valet area. Site works to include the provision of customer and staff car parking, hard and soft landscaping, all on a site of 0.23ha.
- 2.1.2. The file was accompanied by a site characterisation form.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 19th of August 2019 the Planning Authority issued a notification of their intention to REFUSE permission for the following reasons:
 - 1 Having regard to the location of the site access onto a Regional Road and the absence of a full Traffic and Transport Assessment and Road Safety Audit, it is considered that the development if permitted would seriously endanger public safety by reason of traffic hazard and obstruction of road users or otherwise and therefore would be contrary to the proper planning and sustainable development of the area.
 - 2 The site of the proposed development is located in a rural area which is not zoned for development in the current Galway County Development Plan 2015-2021 and associated documentation. The Planning Authority considers that the significant intensification of such use proposed on the

site, over that permitted under Galway County Council Planning Register Number 49060 would contravene materially the development objective EDT7, EDT9, EDT11 and DM Standard 12 as set out in the Galway County Council Development Plan 2015-2021 and the proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

- 3.2.1. **Planning Report:** No record for permission for car sales at this location. Planning Authority has concerns over use at this location, outside a settlement adjacent to the N18. Applicant should be requested to verify. Applicant should be requested to submit a Traffic and Transport Assessment and a Road Safety Audit.
- 3.2.2. The applicant responded to the request for FI on the 23rd July 2019 with the following:
- Planning register map shows permission 17/783, letter from Solicitor confirms.
 - Road is R381, not the N18, therefore DM standard 19 does not apply.
 - A TTA is not required for a regional road. TII have no observations. The I&O section of Galway CC are satisfied with this.
 - The development does not require an RSA. The existing 35-40 car movements will be the same. No new services have been proposed.
- 3.2.3. **Second Planning Report:** Applicant has not submitted verifiable evidence that the existing commercial operation has planning permission. On the basis that there is no planning permission, the Planning Authority have concerns regarding the traffic safety of the development. Recommendation to refuse permission.
- 3.2.4. **Senior Executive Planners Report:** Notes the recommendation of the Planning report and concurs with reason no. 1. All of the existing structures on the site appear to be unauthorised. Permission was granted for car sales activity in a shed in 1985, which was of a much smaller scale than currently occurring. The current proposal represents a significant intensification of a permitted small-scale car sales activity, occurring in a number of unauthorised structures. Recommendation that a second reason for refusal be added.

3.3. Prescribed Bodies

3.3.1. TII: No observations to make.

4.0 Planning History

4.1.1. The planning history of the subject site forms a central part of the appeal and is addressed in detail in section 7 below.

5.0 Policy Context

5.1. Galway County Development Plan 2015-2021

5.1.1. The subject site is located in an unzoned area, north of the settlement of Oranmore.

5.1.2. Policies of relevance include:

DM Standard 12: Rural Enterprise: The Council will consider rural enterprises, and resource development (such as agriculture, agri-food sector, agri-tourism, commercial fishing, aquaculture, marine tourism, forestry, bio-energy, the extractive industry, recreation, cultural heritage, marine enterprise sector, research and analysis) and renewable energy resources (such as wind/ocean energy) in rural and coastal areas within the County subject to considerations of proper planning and sustainable development and shall include the following:

- a) Existing Buildings, The conversion of existing farm buildings in rural areas for small scale employment purposes will be considered subject to policy.
- b) Agriculturally Related Industry, Agriculturally related industry, involving processing of farm produce where it is unsuited to an urban situation and is environmentally sustainable.
- c) Farm-Related Business, Business directly related to farming, such as the servicing and repair of farm machinery, land reclamation, drainage work, agricultural contracting etc., where it will not give rise to adverse environmental effects, have safe access and not be prejudicial to residential amenity.

Objective EDT 7 – Align Enterprise to Serviced Lands: Encourage industrial and enterprise development to operate from lands zoned for these purposes within the various Local Area Plans in the County, subject to an adequate consideration of the policies and objectives of this plan and the need to protect the vitality and amenities of the town or settlement.

Objective EDT 9 – Small Scale Enterprise and Community Services: Seek to provide a strategic economic balance countywide by encouraging the establishment of small scale enterprises and community services in the smaller rural villages and settlements of the County.

Objective EDT 11 – Rural Enterprise: Consider the establishment of small scale rural orientated enterprises in unserviced rural areas outside of town or village settings which can be accommodated in existing farm buildings or can be established on a brownfield site, subject to satisfying the following criteria:

- Compatibility and general suitability to an unserviced rural area (primary consideration will be given to agriculture, renewable and marine resources, forestry, tourism, recreation or food production related enterprise activities and services);
- Scale of development (assimilate appropriately into a rural setting);
- Nature of development (raw materials sourced locally);
- Consideration of social and environmental impacts (enterprise must not have a significant adverse impact on the environment or rural amenity);
- The enterprise must not constitute a road safety hazard or have a major adverse impact on the road network, road capacity and traffic levels;
- Residential amenity (enterprise must not have a significant adverse impact on residential amenity).

5.2. Natural Heritage Designations

- 5.2.1. The subject site is 1km from the Galway Bay Complex SAC (000268) and 1.8km from the Inner Galway Bay SPA (004031).

5.3. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An agent for the applicant has submitted a first party appeal against the decision of the Planning Authority to refuse permission. The appeal submission provides a history and context to the proposed development.

- The applicant received planning permission for a car-sales (73.2sq.m. building on a hard standing area) adjoining in family home in 1985 under reg. ref. 49060.
- An 89.1sq.m structure for motor servicing with an entrance from the public road was constructed in 1985 and can be seen on aerial imagery from 1995.
- Two temporary structures (29.3sq.m. and 8.1sq.m.) and a valet shed (24.8sq.m.) were constructed.
- An enforcement notice was served in 2007 (EN07/513) was not acted on as the unauthorised works were statute barred.
- The business in its current form was fully established in 2000. Circumstances have prevented the regularisation of the business until now. Retention permission was not sought as the business is established.
- The proposed development is a consolidation of the existing and established uses on site. No intensification of use is proposed. The proposed development is a visual improvement.

6.1.2. The grounds of the appeal can be summarised as follows:

Reason no. 1

- The entrance is existing since 1985. The Road has been downgraded from the N18 to the R381 which is not a restricted road as per table 13.2 of the development plan or table 5.1 or 5.2 of variation no. 1 of the development plan.
- The proposed development at 10.6% larger than the existing development does not require a TTA as per Objective TI10 of variation no. 1 of the development plan. TII have no observation to make.
- The engineers in Infrastructure & Operations (formerly Roads and Transportation unit) were contacted before the FI response was submitted. The proposed development does not fall into any of the categories requiring a TTA or an RSA.

The proposed development is the consolidation of existing uses into a single building. There is no internal report from the I&O department on the file.

- The proposed development will greatly improve the site and facilities. Parking will occur on-site rather than the existing hard shoulder.

Reason no. 2

- A 10.6% increase does not constitute a “significant intensification”.
- Objective EDT7 encourages rather than enforces alignment of enterprise to serviced lands. The principle of the subject development on the subject site has long been established.
- Objective EDT9 relates to the establishment of small-scale enterprises and not the existing enterprise.
- Objective EDT11 supports the proposed development and should not be included as a reason for refusal.

6.2. **Planning Authority Response:** None on file

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered all policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development and Planning History
- Traffic

7.2. Principle of Development and Planning History

7.2.1. Although the planning status of the subject premises did not form one of the two reasons for refusal, it is discussed at length in both the two planning reports and the additional report of the SEP. My understanding of the planning history of the site is as follows:

- In 1985, planning permission was granted to the current applicant for the construction and use of a shed of 73.2sq.m. for the purposes of car sales (Planning Authority reg. ref. 49060).
- The applicant constructed a shed of 89.1sq.m for the servicing of vehicles in 1985/1986.
- At some point before 2000, the applicant constructed two temporary pre-fabricated offices (29.3sq.m. and 8.1sq.m.) and a valet shed (28.4sq.m.)

7.2.2. The applicant acknowledges that planning permission has not been sought for any of the above structures but refers to the time limitation for taking enforcement action. The Board will know that status of a structure or a use from a planning perspective and the ability of a Planning Authority to take enforcement action are not mutually exclusive. That a Planning Authority is statute barred from taking enforcement action does not regularise the planning status of unauthorised development – be it a structure or a use. The existing structures on site have no planning permission and therefore the Board is precluded from granting permission in this instance. The appellants arguments that he does not seek to retain the existing structures does not resolve the issue that the use of the site in its current form is unauthorised. The appellant states that the existing uses are established, but does not address that they are not authorised. Whilst permission was granted for a car sales business, within a structure of 73.2sq.m., the scale of the operation currently on site significantly exceeds that.

7.2.3. The appellant states that the proposed development is not an intensification of the existing use, it is however, a material intensification of the permitted use on site.

7.3. **Traffic**

7.3.1. The Planning Authority's second reason for refusal relates to the impact of the existing and proposed development on the adjoining road. The appellant is correct that the road serving the subject site is a regional road, that is not listed as being restricted in the Galway County Development Plan. On the date of my site visit, such was the number of cars 'for-sale' or perhaps awaiting servicing / valet that the only manoeuvre to exit the site was to reverse out the existing gate. The extent of car parking on the hard-shoulder resulted in limited visibility for the exiting car and the

oncoming traffic, travelling at 100kph. I concur with the assessment of the Planning Authority that a TTA and / or a RSA is required for the subject development. However, given the substantive reason for refusal regarding the planning status of the structures and use on site, it is considered unreasonable to request such additional information.

8.0 Recommendation

8.1. I recommend permission be REFUSED for the following reason:

- 1 On the basis of the submissions made in connection with the planning application and appeal, it appears to the Board that the proposed development relates to a site the use of which is unauthorised for the carrying on of car sales and that the proposed development would facilitate the consolidation and intensification of this unauthorised use. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.

Gillian Kane
Senior Planning Inspector

16 December 2019