



An
Bord
Pleanála

Inspector's Report

ABP-306795-20

Development	The change of use of the existing retail unit (O/A Area 275 sq.m) to retail use with ancillary off license sales area (19 sq.m)
Location	No. 8 Abbeyland Crescent , Abbeylands , Navan, Co. Meath C15PN12
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	NA191325
Applicant(s)	Farrelly's Supermarket Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Anthony O'Connor Ben Dalton
Observer(s)	None
Date of Site Inspection	25 th of June 2020
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The site is located to the west of the junction of the Beaufort Road (N51) with Abbeyland/Ratholdren Roads, to the north west of Navan Town Centre. This is a major cross-roads and is controlled by traffic lights with a pedestrian crossing. The site is accessed via the Ratholdren Road. It is noted that while the site address refers to No.8 Abbeyland Crescent, this may be in error as that is a residential cul-de-sac area to the east of the junction and accessed via Flower Hill. However all the plans submitted relate to the subject site.
- 1.2. There is a two-storey semi-detached building on site with a 'Centra' shop (convenience store) on ground floor level and residential over. This is adjoined by a Pizza takeaway with residential above immediately adjacent to the southeast. There is a surfaced and marked out on-site parking area to the front and south east of these units. The site is at the south eastern corner of the residential area adjacent to the cross-roads. There is a detached two storey dwelling house to the west of the site and residential to the south west 'Silver Lawn'. There is pedestrian access from the latter to the site.
- 1.3. A Londis supermarket with an existing small off-licence area is located on the opposite side of the road. The main vehicular entrance to St. Paul's Primary School is located adjacent to the Londis Store. Extension works are currently taking place within the school site. There is further residential to the north west of this.

2.0 Proposed Development

- 2.1. This is for a change of use of the existing retail unit (O/A Area 275sq.m) to retail use with ancillary off license sales area (19sq.m) at Centra Farrelly, Ground Floor.

3.0 Planning Authority Decision

3.1. Decision

On the 7th of February 2020 Meath County Council granted permission, for the proposed development subject to 2no. conditions. These include being in

compliance with plans and particulars submitted and a restriction on exempted development relative to advertising.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy and to the interdepartmental reports and the submissions made. Their Assessment included the following:

- They had regard to the nature and scale of the proposal and considered that a Stage II (NIS) would not be necessary in this case.
- They had regard to the principle of development and noted the location within the 'A1' residential zoning.
- They note that no alterations to the building or additional floor area are proposed.
- They did not consider that the proposal will affect car parking.
- The shop is served by an existing connection to the public sewer and surface water drain and the applicant is proposing to utilise these connections.
- The site is not located in a Flood Risk zone.
- As no additional floor area is proposed development contributions are not applicable.
- They note that the main area of concern is the off-licence, which is not a permitted use on A1(Residential) zoned lands as per the Navan DP 2009. They recommended that F.I be sought on this issue.

Further Information request:

This included the following:

- The applicant was requested to demonstrate how the proposed development complies with the A1 site zoning objective and to submit details which justify the need for an additional off-licence at this location.

- They were requested to clarify if any additional signage is proposed to the building shopfront.
- To review the submissions made and address the issues raised.

Further Information response:

Keenan Lynch Architects have submitted a response on behalf of the Applicants which includes the following:

- They include a Planning Report by APS Consulting Engineering to address the zoning issue and the submissions made.
- Additional signage is not proposed to the building shopfront.
- Revised Public Notices are not required.

Planner's response

The Planner had regard to the F.I submitted and their response included the following:

- They noted the Planning Report submitted by APS Consulting Engineering and consider that the applicant has demonstrated that the proposed development complies with the A1 zoning objective and the Retail Planning Guidelines.
- They have submitted a justification for the need for an additional ancillary off-licence at this location to serve the adjacent residential area.
- They note that the applicant has stated no additional signage is proposed to the shop-front.
- They have addressed the issues raised in the submissions made as part of the report prepared by APS Consulting Engineering.
- They have had regard to the number of off licences within 1km of the site.
- They consider that the off-licence is ancillary to the overall retail use and it is noted the premises has been selling wine for the last number of years.
- They concluded that the proposal is acceptable and not contrary to planning policies and would not negatively impact on the character and amenities of the area. They recommended permission subject to conditions.

3.3. Other Technical Reports

Water Services

They refer to surface water treatment and disposal and provide that all work shall comply fully with the GDSDS Regional Drainage Policies Volume 2, for New Developments.

Chief Fire Officer

They note that a Fire Safety Certification Application is required for the development under Part III of the Building Control Regulations.

3.4. Prescribed Bodies

None noted on file.

3.5. Third Party Observations

Submissions have been made and concerns raised in particular relative to the off-licence element in the residential zoning. Note has been had in The Planner's Report and these issues are considered further in the context of the Third Party Grounds of Appeal and in the Assessment below.

4.0 Planning History

The Planner's Report and the Planning Report submitted as part of the F.I provide details on the Planning History of the site. This includes the following permissions granted subject to conditions by the Council:

- Reg.Ref. NT800006: Permission granted (April 2008) for the retention of extension at rear of existing shop of application previously granted permission Reg.Ref. TP51/00 refers.
- Reg.Ref. NA170605: Permission granted (August 2017) for the retention planning permission for shopfront to existing shop.
- Reg.Ref. NA180374: Permission granted (July 2018) for the removal of existing stairwell to provide additional retail space and the provision of an

external stairwell and new first floor entrance to the side of shop unit/first floor apartment.

5.0 Policy Context

5.1. Meath County Development Plan 2013-2019

Section 2.3.3: The former Town Development Plans for Navan, Trim and Kells are to be read as part of the County Development Plan pursuant to Section 11(c) of the Planning and Development Act 2000 as amended.

Section 3.4.2: Navan is classified as a Large Growth Town 1 and a primary growth centre and regional economic driver in the GDA.

Objective SS OBJ 8 seeks: *To develop Navan and the Drogheda Environs as the primary development centres in Meath and to ensure that the settlements grow in a manner that is balanced, self sufficient and supports a compact urban form and the integration of land use and transport.*

Section 4.1.1: To develop Navan Core Economic Area. Development objectives include: *The significant intensification of employment opportunities in Navan to serve the large resident population is a strategic objective of the Development Plan.*

Section 4.5.9 refers to Design Quality and to the 2012 Retail Planning Guidelines and the accompanying Retail Design Manual.

Section 11.7 provides the Development Management criteria relative to Retail Development and includes regard to Design and Layout.

Section 11.9 provides the Car Parking Standards.

Appendix 5 contains the Retail Strategy.

5.2. Navan Development Plan 2009-2015 (as varied)

Following the dissolution of all 3 Town Councils in May 2014, Navan and Trim Development Plans are now deemed to form part of the County Development Plan 2013-2019 and are still in force as per Section 11c of the Planning and Development Act 2000 (as amended).

The site is shown within the A1- Existing Residential zoning where the Objective seeks: *To protect and enhance the amenity of developed residential communities.*

It is noted that while convenience outlets and public houses are referred to as being 'open to consideration', no mention is made of off-licences being permitted or open to consideration. These are referred to in a mix of uses relative to Neighbourhood Centres. (Section 3.9 refers).

It is also provided that the Council's *Shopfront and Signage Guidelines are relevant to the assessment of the current application.*

5.3. Natural Heritage Designations

The River Boyne and River Blackwater SPA (Site Code: 004232) and SAC (Site Code: 002299) are located approx. 200m south of the appeal site.

5.4. EIA Screening

Having regard to the nature and scale of the proposed development on a fully serviced site and the nature of 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

Two separate Third Party Appeals have been submitted from:

- Anthony O'Connor
- Marston Planning Consultancy on behalf of Ben Dalton

As similar type issues are raised, for convenience their grounds of appeal are considered together, and these include the following:

Planning Policy -Zoning

- It is notable that retail and off-licence are neither permitted nor open to consideration within the A1 Residential zoning.
- This proposal seeks to intensify the existing retail use. Retail and off-licences are not permitted within the zoning. Convenience outlets are open to consideration.

Impact on Schools

- The proposed off-licence is located across the road from St. Paul's P.S which has 700 pupils attending.
- Having an off-licence in the vicinity of schools will only further expose young people to alcohol and can contribute to anti-social behaviour in the area. An extract is enclosed from research commissioned by Alcohol Action Ireland.

Impact on the Character and Amenities of the Area

- They note and provide details of the number of off-licences in the area, within 1km of the site.
- The protection of established residents should be of primary concern.
- This predominantly residential area is more than adequately served with off-licences and be detrimental to the residential amenity of the area.
- There is an overprovision of off-licences in the area, including the Londis supermarket on the opposite side of the road.
- There is concern that the proposed scale of the off-licence relative to the total floor area is excessive and cannot be considered minor in nature.
- There is no compelling case for the off-licence proposed.

Design and Layout

- They query floor space issues relative to retail and provide that there is no evidence or breaking down of internal floor areas. They request the Board to question the validity of the net retail floorspace given the lack of evidence to support it.

Access and Traffic

- Its strategic proximity to the N51 is noted and additional traffic local traffic will result in traffic hazard.

Conclusion

- It would be inconsistent with planning policies and objectives of Meath County Council and contrary to the proper planning and sustainable development of the area, including the preservation and improvements of amenities thereof.

6.2. Applicant Response

APS Consulting Engineers Response to the Third Party Appeal includes regard to the following:

Planning Policy - Zoning

- The proposal complies with planning policies and guidelines.
- The existing premises has a nett retail space of 191sq.m and as such under the Navan DP is considered a convenience outlet. As such the ancillary off-licence element is open for consideration in the A1 zoning.
- Regard is had to the Retail Planning Guidelines and to the definition of convenience goods.

Impact on Character and Amenities of the Area

- They consider that the amenities of local residents will not be negatively impacted and that it will provide a positive addition to the area.
- They do not consider that the proposal will have a detrimental effect on the local Primary School.
- The proposal will comply with the strict guidelines for the sale of alcohol. CCTV security cameras will be provided and it will be designed to allow it to be closed to customers outside the permitted hours of operation of the off-licence.
- There has been no history of anti-social behaviour in the area and this proposal will be strictly monitored and will not lead to such.

- The existing access, traffic and parking arrangements will remain unchanged. The proposal will not generate additional traffic requirements.
- The Public Health (Alcohol) Bill 2015 sets out restrictions in relation to advertising and display of alcohol in mixed trading outlets. Their client undertakes to comply fully with these requirements and any subsequent amendments.
- They note and intend to comply with Condition no.2 of the Council's permission which provides restrictions on exemption.
- They do not intend to alter or provide additional signage.

Proliferation

- There is a total of 10no. off-licences in the 1km area. They include a map to show these. They do not consider that there is an over concentration of off-licences to serve the catchment area.

Conclusion

- Having regard to the specific zoning objectives of the Navan DP and the established use on the site they consider that the use as part off-licence within the existing convenience outlet is appropriate.

6.3. Planning Authority Response

Their response to the Grounds of Appeal includes the following:

- They note that there are no policy limitations regarding the number of off licences in the area.
- The off licence will be located within an existing convenience shop and will be ancillary to the overall use.
- They note the established use of the convenience store. It has been stated that wine has been sold from the premises and there has been no history of anti-social behaviour in the area.
- They note the number of off-licences in the area as stated by the applicant in their F.I submission.

- They do not consider that the proposed off licence would impact on the residential amenity of the area or the primary school located across the road.
- No additional floor area is proposed to the existing convenience outlet and the proposed off licence will serve the adjoining residential area and is considered ancillary to the retail use onsite.
- They consider that the applicant has demonstrated that the proposed development complies with the A1 site zoning objective and the Retail Planning Guidelines and has submitted a justification for need for an additional off licence at this location to serve the adjacent residential area.
- They ask the Board to uphold their decision and to grant permission.

7.0 Assessment

7.1. Policy Considerations

- 7.1.1. The proposed development would involve the inclusion of a part off-licence use into an existing established convenience outlet in Navan. Regard is had to the policies and objectives of the Meath County Development Plan 2013-2019 and to the Navan Development Plan 2009-2015 (as extended). As shown in the Land Use Zoning Map the site is shown within the A1- Existing Residential zoning where the Objective seeks: *To protect and enhance the amenity of developed residential communities*. It is noted that while convenience outlets are open to consideration, no mention is made of off-licences being permitted or open to consideration.
- 7.1.2. A *Convenience Outlet* is defined in the Explanatory Notes of the Section 2.9.5 of the Meath CDP 2013-2019 as: *a single level store selling food and other convenience items with a net sales area of not more than 200sq.m*. The First Party provides that the net sales area of the existing store is less than and complies with this definition. They also refer to compliance with the Retail Planning Guidelines 2012 and consider the proposed use which is to be less than 10% of the net floor area of the existing established convenience outlet is open to consideration on A1 zoned lands.
- 7.1.3. The Retail Planning Guidelines 2012 made under section 28 of the Planning and Development Act 2000 (as amended), include regard to local shopping,

supermarkets and convenience shops. Annex 1 provides a *Glossary of Terms* and this includes A.1.1 which refers to *Types of Retail Floorspace* providing a distinction between net and gross retail floorspace. Section A.1.2 refers to *Types of Retail Goods* and the definition of *Convenience Goods* includes: food, alcoholic and non-alcoholic beverages, tobacco and non-durable household goods.

- 7.1.4. The Third Parties are concerned that the proposed development would contravene the 'A1' residential zoning objective of the site and would be detrimental to residential amenity and result in the further expansion of off-licences or part off-licences in the area, where there is already an over proliferation of such. The proximity to the school is also raised as a concern. They consider that the proposal would be contrary to the proper planning and sustainable development of the area.
- 7.1.5. Having regard to the above it would appear that the principle and the scale of the use as ancillary to the main use of convenience outlet would not be contrary to planning policy taking the definition of convenience goods in the RPG which includes the sale of alcohol, into consideration, provided the proposed development is sustainable and not detrimental to the residential amenities of the area. Regard is had to the documentation submitted and to the issues raised in the context of the Assessment below.

7.2. Design and Layout

- 7.2.1. This proposal seeks to change the use of 19sq.m of the existing convenience outlet 'Centra' to create an ancillary off-licence sales area at the existing ground floor retail unit. No extensions/external alterations or signage/advertisements are proposed. The Floor Plans show in 'yellow' two separate areas for the sale and display of alcohol within the store. The front area close to the entrance behind the cash counter (c.7sq.m) shown for 'spirits' and the area further down the store for 'wines and chilled beers' (c.11sq.m).
- 7.2.2. In response to the Council's F.I request a Planning Report was submitted by APS Consulting Engineers. This notes that the existing retailer has been in business at this location for the last 15 years. This provides that the existing convenience store has a net floor space of 191sq.m and a gross floor space of 275sq.m. The off-licence will occupy 19sqm which represents less than 10% of the net retail floor space. They

provide that the proposed off-licence will be located to the rear of the existing outlet and will be subsidiary to the main convenience retail use and will represent only a small proportion of the overall business.

- 7.2.3. It is noted that the existing convenience outlet is a local shop serving the immediate residential and which includes the sale of wine for consumption off the premises. On site I noted that there is currently a small section of the floor area towards the front of the shop used for the sale of wines. The First Party response provides that permission for the sale of 'wines' is effectively not required as the sale of wines is already permitted under the existing retail planning. If the Board decides to permit, I would recommend, that it be conditioned that the floor area for the off-licence which includes the sale of spirits, wines and beers not exceed 19sq.m as applied for in the current application.
- 7.2.4. It is noted that the design and layout refers to the internal layout, and does not include any external extensions or alterations, or additional signage. If the Board decides to permit, I would recommend, that a condition similar to condition no.2 of the Council's permission which provides restrictions of exemption be included and that there be no additional signage relevant to the current application.

7.3. **Access and Parking**

- 7.3.1. The subject site is located at the junction of Ratholdren Road and the N51 c. 1km NW of Navan town centre. There are traffic lights at the junction and a pedestrian crossing at this, major cross-roads, which serves both the Centra and the Londis on the opposite side of the road. The site is accessed via the busy Ratholdren Road.
- 7.3.2. There is concern that the proposed use will result in additional local traffic and in view of its strategic location close to the major cross-road junction of the N51 and Ratholdren Road and Abbeyland has the potential to result in traffic hazard. Also, that the proposal will lead to additional traffic and demand for on-site parking.
- 7.3.3. It is noted that the subject site is located adjacent to access routes and the residential area with cycle and footpath access. The First Party provide, that the proposal will allow the retailer to provide additional services to their existing customers thereby reducing the number of shopping related car journeys and will promote the access to retailing by cycling and walking. They provide that the existing

access, traffic and parking movements remain unchanged. That the proposed development which does not involve the creation of any additional floor area will not create an additional demand for parking, nor is it expected to generate additional traffic movements. No changes are proposed to the existing access arrangements.

- 7.3.4. I noted on my site visit that there is a sizable on-site parking area available for the premises and adjoining uses. Having regard to the scale and nature of the proposal as an ancillary usage to the convenience outlet I would not consider that this proposal will impact adversely on the parking area or the access to the site.

7.4. Impact on the Character and Amenities of the Area

- 7.4.1. There is concern that there is an over-proliferation of off-licences in the area. Details are given relative to the Londis store opposite (c.45m away), and several other off-licences accessible within a 1km distance of the site. It is submitted, that the cumulative effect on the area and the detrimental impact of over provision needs to be taken into account. Regard is also had to the proximity to 'St. Paul's P.S' on the opposite side of the road. There is concern that this will serve to expose young people to alcohol and encourage anti-social behaviour.
- 7.4.2. The F.I response provides that the amenities of local residents will not be negatively impacted by the proposed development and submits that the proposal will provide a positive addition to the area by providing convenience and promoting a competitive market place in the local area. They provide they will comply with current guidelines for off-licence and that the area for sale and display will be designed in such a manner that allows it to be closed to customers outside of the permitted hours of operation of the off-licence. They submit that the development will be carried out in accordance with all relevant laws and guidelines (including the RRAI Code of Practice and Public Health (Alcohol) Act) to ensure that the proposed part change of use does not have a detrimental effect on the amenity of local residents or the local primary school.
- 7.4.3. Relative to the proliferation issue, it is noted that there is no specific policy limiting the number of off-licences in the Meath CDP or the Navan DP. It is provided, that there is a total of 10no. off-licences within a 1km radius of the subject site and details are given relative to the locational context of these (Map included). It is submitted

that the subject premises is an established local type convenience outlet serving the predominantly residential area in the immediate vicinity. The First Party do not consider that the proposed development will lead to an over proliferation of off-licences in the area. Also, of note is that there are a significant amount of lands zoned for residential to the west of the subject site. They contend that these lands would lie within what is considered to be the natural catchment area for the existing convenience outlet. However, while of consideration it is noted that this area is not yet constructed.

- 7.4.4. Having regard to the documentation submitted I would consider that provided the proposal is operated in accordance with current laws and guidelines relative to the sale and display of alcohol (which are under separate remit) and that the floor area for such ancillary use does not exceed 19sq.m, that the proposal will not be detrimental to the character and amenities of the area.

7.5. Screening for Appropriate Assessment

- 7.5.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.6. Recommendation

- 7.7. I recommend that permission be granted subject to the conditions below.

8.0 Reasons and Considerations

Having regard to the existing established convenience shop located on site, to the planning history of the subject site, to the pattern of development in the area and to the ancillary nature of the proposed off-licence use, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be contrary to the policies and objectives of the Meath County Development Plan 2013 – 2019 and to the Navan Development Plan 2009-2015 (as extended) or to the

Guidelines for Planning Authorities Retail Planning (2012). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 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 15th day of January 2020 and by the further plans and particulars received by An Bord Pleanála on the 03rd day of April, 2020, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to a maximum of 19sq.m of ancillary off-licence sales area (as specified in the lodged documentation), within the convenience outlet, unless otherwise authorised by a prior grant of planning permission.

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

3. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

Angela Brereton
Planning Inspector

1st of July 2020