



An
Bord
Pleanála

Inspector's Report

ABP-307019-20

Development	Construction of a single storey cafe building.
Location	The carpark of Tesco, Clonmullen Retail Park, Edenderry, Co Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	20/1
Applicant	Tesco Ireland Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal
Appellant	Tesco Ireland Ltd.
Observer(s)	None
Date of Site Inspection	08.06.2020
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is in the eastern area of Edenderry in east Co. Offaly.
- 1.2. The site comprises the south eastern area of the car park of a Tesco retail unit which also incorporates other commercial units. The site is adjacent to the vehicular entrance of the car park. The site boundary includes 30 no. car parking spaces, part of a vehicular circulation area, a totem sign at the entrance and a covered trolley shelter. Car parking spaces have a brick surface while the vehicular circulation area has a tarmac surface. A Lidl store is located adjacent to the south and there is an Aldi store to the south west.
- 1.3. The site has a stated area of 0.0765 hectares.

2.0 Proposed Development

- 2.1. The application is for permission for a single storey café as well as ancillary works.
- 2.2. The proposed café has a stated floor area of 232sqm (plus an 18sqm bin store) and an indicated height of 5.5 metres. The structure is to be externally finished in metal panelling with substantial glazing.
- 2.3. In addition to standard planning application plans and particulars the application was accompanied by a 'Planning Report' and brief engineering letters relating to traffic and services.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused the planning application for three reasons as follows:

1. It is considered that the proposed development would be contrary to policy TCP3 of the Edenderry Local Area Plan 2017-2023 which states "To encourage retail development including new forms of shopping, which relate to the revitalisation of the existing town centre. Proposals, which would undermine the

vitality and viability of the town centre because of their location at remove from the town centre area will not be permitted”. The applicant has not demonstrated to the satisfaction of the Planning Authority that the proposed café would not have an unacceptable impact on the vitality and viability of Edenderry Town Centre. Therefore, the proposed development would, be contrary to the proper planning and sustainable development of the area.

2. The proposed development will create significant additional trips in and out of Tesco’s Car Park onto the L-50432-4 local road which will form part of the “Edenderry Inner Relief Route”, would endanger public safety by reason of traffic hazard and would interfere with the safety and free flow of traffic on the L-50432-4 local road. It is therefore considered that the increase in traffic resulting from the proposed development if permitted would endanger public safety and would therefore be contrary to the proper planning and development of the area.
3. The proposed development would result in a displacement of approximately 54 no. car parking spaces from the existing retail park, resulting in a large shortfall of parking provision for the entire development, which would endanger public safety by reason of a traffic hazard or obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The Planning Report is the basis of the planning authority decision. In the conclusion, the report states that, having regard to the high commercial vacancy rate in the town centre, the applicant has not demonstrated that alternative sites were examined. Reference is also made to the Area Engineers report and the Road Design Section report relating to the shortfall in car parking and, in light of these, a refusal was recommended.

3.2.2. Other Technical Reports

Road Design – A refusal was recommended because (i) it would reduce the existing car parking arrangements and, (ii) no provision has been made for additional car parking spaces required.

Area Office – The Area Office has significant reservations regarding the additional loading on the junction of the estate road/Edenderry Inner Relief road and the R402 and could not recommend to proceed.

Water & Environmental Services – No objection subject to conditions.

Chief Fire Officer – No objection subject to a condition.

HSE – No objection subject to conditions.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

1 no. submission was received from Ciaran Mangan, Dublin Road, Edenderry, who wished to be kept informed of any decision made.

4.0 **Planning History**

The relevant planning history is as follows:

P.A. Reg. Ref. 05/254 – Permission granted in 2005 for a 4,392sqm gross floor area supermarket, 415 no. car parking spaces, access provisions, ancillary development and site development works.

P.A. Reg. Ref. 07/536 – Permission granted in 2007 for a ground floor extension (retail use) with first floor mezzanine to include restaurant, staff restaurant, toilets, cloak rooms and offices to the side of the existing supermarket (1,125sqm at ground floor level and 725sqm at first floor level), relocation of the main shop entrance to the new extension and a 146sqm single-storey extension to the side of Unit 12 (light industrial-type unit to the north).

5.0 Policy Context

5.1. Offaly County Development Plan 2014-2020

- 5.1.1. Chapter 2 (Economic Development Strategy), Chapter 5 (Retail and Town Centre Strategy) and Chapter 8 (Development Management Standards) of the Plan are relevant.

5.2. Edenderry Local Area Plan 2017-2023

- 5.2.1. The site is in an area zoned 'Business/Employment'. This zoning is to provide a range of opportunities for employment related development. This Plan does not include a specific zoning matrix. The relevant zoning matrix is contained in Table 8.3 of the County Development Plan 2014-2020. A 'restaurant/café' is open for consideration. The use of this zoning shall be taken to include the use of land for primarily commercial and business use. New comparison or convenience developments which may detract from the vitality and vibrancy of the town centre will not be permitted and all other proposed retail developments should have regard to the Retail Planning Guidelines 2012.
- 5.2.2. Chapters 6 (Achieving Goals) and 7 (Design Guidance) are relevant chapters.

5.3. Retail Planning Guidelines for Planning Authorities, 2012

- 5.3.1. These guidelines are relevant to the current application.

5.4. Natural Heritage Designations

- 5.4.1. The closest Natura 2000 site is The Long Derries SAC approx. 4.2km to the south. The closest heritage area is Grand Canal pNHA approx. 970 metres to the south.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced urban 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 stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The main issues raised can be synthesised as follows:

- The application was made to improve the offer available to customers of the Tesco store, Clonmullen Retail Park and adjoining uses. The high-quality building and outdoor seating area will improve the urban environment, create a more pleasant pedestrian environment and improve the visual appearance of the site.
- A 'restaurant/café' is open for consideration under the zoning objective. In line with the recommendations of the Retail Planning Guidelines the proposed café, an ancillary retail service, will not serve as a destination in its own right that would adversely impact on the town centre.
- With regard to the first reason for refusal, the café is proposed as an ancillary service to customers of the Tesco store, Retail Park and established uses north east of JKL Street. It is in an established retail and retail services area and will enhance the offer of the retail area by offering an ancillary retail service of limited scale. It does not constitute a scale or form of development which has the potential to impact upon the role and function of the vitality and viability of the town centre. A modest standalone café would not change the relationship between the site and the town centre area. There is currently an in-store café, granted under P.A. Reg. Ref. 07/536, and it is the applicant's intention to relocate the café to the proposed building. While it is acknowledged the site is on the edge of Edenderry town it must be recognised that the planning authority have granted permission for the development of a retail hub at this location. This ancillary retail service will not act as a destination in its own right given the established land uses within the immediate area. Ancillary café facilities have become an accepted form of development in retail parks and centres across

the country as it is recognised that they operate in an ancillary capacity rather than attracting trade from town centres. The proposed development will contribute to the economic growth of the area while also enhancing the urban environment.

- In relation to the second reason for refusal, an Engineers Report has been prepared and submitted with the grounds of appeal. The development does not exceed the NRA's Traffic and Transport Assessment Guidelines threshold of 1,000sqm for when a transport assessment is required. Trip rates are not expected to exceed 10% of the traffic flow on the adjoining road or 5% of the traffic flow on the adjoining road where congestion exists or where the location is sensitive. The addition of trips from the proposed development to the local network will be immaterial with minimal reduction in capacity or increase in queuing/delays at local junctions. The café will be ancillary to the supermarket, rather than attracting additional trade from elsewhere. The existing in-store café will be relocated and, as such, the proposal will be replacing an existing facility. The traffic assessment concludes that, given the small-scale nature of the proposed development, it will not result in any significant additional traffic.
- In relation to the third reason for refusal, an Engineers Report has been prepared and submitted with the grounds of appeal. A restaurant requires one car parking space per 10sqm floor area. 415 no. car parking spaces are provided in the Tesco development. The Tesco development is approx. 6,388sqm which requires 277 no. car parking spaces based on current Development Plan standards. The proposed development requires 23 no. car parking spaces. To meet current standards the overall development (Tesco plus the proposed café) would require 300 no. car parking spaces. On completion of the development there will be approx. 361 no. car parking spaces provided which is above Development Plan standards. The proposed level of parking provision is adequate. Notwithstanding, it is not envisaged the proposed café will attract any additional traffic but will function as an ancillary use. It is expected most trips will be linked trips with the overall retail centre or will be pedestrian trips from the surrounding residential areas. Bicycle parking spaces and improvement to the pedestrian environment will encourage trips by sustainable modes.

6.2. **Planning Authority Response**

- 6.2.1. The details of the appeal are noted and have been considered. The Board's attention is brought to the planners and technical reports on file. The planning authority respectfully requests the Board to support its decision in this instance.

6.3. **Observations**

None received.

6.4. **Further Responses**

None.

7.0 **Assessment**

The main issues are those raised in the grounds of appeal and the Planning Report and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning/Impact on Town Centre
- Design and Siting
- Traffic Generation
- Car Parking
- Appropriate Assessment

7.1. **Zoning/Impact on Town Centre**

- 7.1.1. The first reason for refusal of the planning authority decision stated that it had not been demonstrated that the proposed café would not have an unacceptable impact on the vitality and viability of Edenderry town centre.
- 7.1.2. Under the Edenderry Local Area Plan 2017-2023 and the Offaly County Development Plan 2014-2020, a 'restaurant/café' is open for consideration on land zoned

'Business/Employment'. While new comparison or convenience developments which may detract from the vitality and vibrancy of the town centre will not be permitted, all other proposed retail developments should have regard to the Retail Planning Guidelines 2012.

- 7.1.3. The site is located within Clonmullen Retail Park. This park is anchored by Tesco and the Tesco building also includes associated units such as Heatons, a sports shop and an in-store café all under the same roof. The Park also contains some light industrial type units immediately adjacent to the north of the Tesco building also accessed from the Estate Road/L-50432-4/Inner Relief Route. In addition, there are also other significant retail units in the immediate vicinity such as Lidl and Aldi.
- 7.1.4. The aim of the 2012 Guidelines is to ensure the planning system continues to play its role in supporting competitiveness and choice in the retail sector commensurate with promoting the vitality and viability of cities and towns. While the proposed development is 232sqm in floor area I do not consider that it can be considered significant in the context of the existing pattern of development in the vicinity. I consider that it would consolidate the existing area and be an appropriate ancillary use rather than comprising a significant new retail development in its own right.
- 7.1.5. In addition, there is an existing in-store café within the Tesco building which it is proposed to relocate to the proposed structure. Therefore, in effect, a completely new use is not being provided, but rather an existing use is more visible. I consider that it is not likely that the proposed café will become a significant stand-alone destination but rather will be an ancillary facility to the main trip generators in the vicinity.
- 7.1.6. Having regard to the foregoing, I consider that the proposed development would not be a new use on site and would not be a significant stand-alone trip generator. I do not consider that it would significantly affect the vitality and viability of the town centre and it would be in accordance with the proper planning and sustainable development of the area.

7.2. Design and Siting

- 7.2.1. The proposed structure will result in a new development at this location. The proposed footprint is located in the south eastern area of the Tesco car park, adjacent to the car park entrance, and will affect car parking spaces and the vehicular circulation area.

- 7.2.2. The proposed café has a stated floor area of 232sqm (plus an 18sqm bin store) and an indicated height of 5.5 metres. The structure is externally finished primarily in metal panelling with substantial glazing and would be a contemporary design addition to the area. Given the location of the proposed café within a large car park and adjacent to a public road, I consider the elevational design to be acceptable. None of the elevations portray a 'rear' elevation and the bin store area has been reasonably integrated into the design. Glazing to all four elevations increases passive surveillance of the area. In addition, the proposed structure would provide an urban edge to the Retail Park. Currently the dominant view is of a large car park. The proposed structure would help reduce the impact of the significant area of tarmac and brick surfacing and would generally improve the urban environment and consolidate the built fabric.
- 7.2.3. Therefore, I consider the proposed development to be acceptable in terms of design and siting.

7.3. Traffic Generation

- 7.3.1. The second reason for refusal in the planning authority decision states that the proposed development would create significant additional trips into and out of the car park, would endanger public safety by reason of traffic hazard and would interfere with the safety and free flow of traffic on the Estate Road/L-50432-4/Inner Relief Route.
- 7.3.2. The grounds of appeal include an Engineers Report which concludes that the total vehicle movements generated by the proposed development to the local road network would be immaterial, with minimal reduction in capacity or increase in queuing/delays at the local junctions when pass by, diverted and linked trips are factored in. Having regard to the relatively limited scale of the proposed development and its ancillary use to more substantial development in the immediate vicinity I agree with the grounds of appeal that the increase in traffic movement into and out of the car park, as a direct result of the proposed development, will be limited.
- 7.3.3. I do not consider that the proposed development could be considered to endanger public safety by reason of a traffic hazard or that it would interfere with the safety and free flow of traffic on the Estate Road/L-50432-4/Inner Relief Route. The trips generated specifically by the proposed development would be limited in number. The

car park connects to the public road at a location that is straight, in a low-speed traffic environment and where there are good sightlines.

- 7.3.4. Having regard to the foregoing, I do not consider that the planning authority's second reason for refusal is reasonable and I do not consider permission should be refused on the basis of endangering public safety by reason of traffic hazard or interfering with the safety and free flow of traffic.

7.4. Car Parking

- 7.4.1. The third reason for refusal in the planning authority decision relates to a shortfall in car parking provision on site.

- 7.4.2. The Engineers Report submitted with the grounds of appeal states that the existing Tesco development and the proposed café would result in a requirement for 300 no. car parking spaces under the County Development Plan 2014-2020 standards. I consider this figure is inaccurate because Table 3 of the Engineers Report erroneously includes a 146sqm extension (requiring 6 no. car parking spaces) to the Tesco building which was actually related to one of the industrial-type units to the north. The 6,388sqm floor area referenced in the grounds of appeal is also inaccurate for the same reason i.e. it is 146sqm larger than the 6,242sqm Tesco building floor area. In addition, the Engineers Report states there are 415 no. existing spaces currently on site whereas there appears to be only 355 no. spaces provided. Also, the grounds of appeal states 361 no. car parking spaces will be available post-development. I am unclear as to how this figure was calculated.

- 7.4.3. Notwithstanding, I consider the car parking situation to be as follows. The original planning permission (P.A. Reg. Ref. 05/254) provided for 415 no. car parking spaces to cater for the 4,392sqm supermarket. A 1,850sqm extension to this building was permitted under P.A. Reg. Ref. 07/536 giving an overall Tesco building floor area of 6,242sqm. The extension was constructed on part of the originally permitted car park and resulted in the loss of 60 car parking spaces leaving 355 no. spaces. It is proposed to lose another 30 no. spaces because of the proposed development, leaving 325 no. spaces to cater for both the Tesco development and the proposed café. Under Table 8.2 (Car Parking Standards) of the County Development Plan 2014-2020, 'shops/takeaways' require 1 space per 23sqm gross floor area. This would infer a

requirement of 271 spaces for the existing Tesco development. The car parking requirement for a restaurant is one space per 10sqm floor space which would result in a requirement of 23 no. spaces. This would result in an overall requirement, for both developments under the current car parking standards, of 294 no. spaces which is 31 no. spaces fewer than the 325 no. spaces that would be provided.

7.4.4. Having regard to the foregoing I consider that a refusal of permission based on inadequate car parking provision is not appropriate.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location remote from and with no hydrological pathway to any 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**

8.1. I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to the provisions of the Edenderry Local Area Plan 2017-2023 and the Offaly County Development Plan 2014-2020, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions as set out below, the proposed development would be acceptable in terms of impact on Edenderry town centre, would not endanger public safety by reason of traffic hazard, would not interfere with the safety and free flow of traffic and would not result in a shortfall of car parking spaces serving the development. 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 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. Details of the materials, colours and textures of all the external finishes to the proposed structure shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Details of proposed external signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The hours of operation shall be restricted to between 07.00 and 22.00 hours Monday to Sunday.

Reason: To protect the amenities of the adjoining properties.

5. 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 public health.

6. The developer shall enter into a water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 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.

Anthony Kelly

Planning Inspector

25.06.2020