



An
Bord
Pleanála

Inspector's Report

ABP-307025-20

Development	Construction of a retail warehouse unit including associated access, car parking, bicycle parking, hard and soft landscaping, and signage.
Location	Kinsale Road Retail Park , Kinsale Road , Turner's Cross, Co Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	1938739
Applicant(s)	Motor Services Limited.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	First Party v condition 2
Appellant(s)	Motor Services Limited.
Observer(s)	None.
Date of Site Inspection	31st July 2020.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site is located within the Kinsale Road retail park (also referred to as Turners Cross Retail Park) between the Kinsale Road and the South Link Road in the western suburbs of Cork City. The retail park is circa 2km south of the city centre and 1km north of Kinsale Road Roundabout. The retail park is accessed via a signalised junction at the Kinsale and Tramore Roads. The retail park comprises 5 existing retail units occupied by Woodies DIY, Harry Corry, World of Tiles, Homestore and More a vacant unit and there is also a Costa Coffee. A Laura Ashley retail unit is located at the entrance. A filling station and Kube Kitchens are located in the northwest section accessed directly off Kinsale Road. Residential development two storey semi-detached dwellings of Slieve Mish back onto the site to the north with a solid block wall forming the common boundary.

2.0 Proposed Development

- 2.1. The proposal is for a retail warehouse development within the established retail park comprising a gross floor area of 974m². The GFA includes sales space, storage space, office areas circulation space and customer service area. The structure is single storey in height similar in height to match the form and height of the existing retail warehouse units.
- 2.2. The application is accompanied by number of reports including a retail assessment by McCutcheon Halley, an Engineering Report by Horgan Lynch, and a supplementary information report by Tom Hegarty Architects. In response to the request for additional information A Daylight Sunlight Report by Joda Engineering Consultants was submitted.

3.0 Planning Authority Decision

3.1. Decision

By order dated 5th March 2020 Cork City Council issued notification of its decision to grant permission and 17 conditions were attached including the following of particular note.

Condition 2 (subject of this appeal). *“The permitted unit shall, in its entirety, be reduced in width to 10m. Prior to the commencement of development, drawings and plans which show this reduction in width and any subsequent front elevational changes shall be submitted to the Planning Authority for written agreement.*

Reason: In the interest of protecting the residential amenities of adjoining properties.”

Condition 3 Use for sale of bulky goods as defined in Retail Planning Guidelines 2012 only. Restriction on change of use / amalgamation of units.

Conditions 4 & 5 Signage and advertising

Condition 6. Total parking on site shall not exceed maximum parking standard

Condition 7. Construction traffic management plan

Conditions 8 & 12 Lighting requirements

Conditions 9 & 10 Drainage

Condition 11. Waste

Conditions 13 & 15 Noise

Condition 14. Mitigation regarding dust noise odour litter.

Condition 16. Landscaping.

Condition 17 Contribution €35,163.81.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Senior Executive Planner Planning Policy notes that the proposal would result in a 12% increase on the existing bulky retail floorspace provided for within this retail park and is well within the projected demand for retail warehousing floorspace set out in the Metropolitan Cork Joint Retail Strategy 2013. Given the location, land use zoning nature and scale of both the existing retail park and proposed retail warehousing unit, the principle of the proposed development in accordance with national regional and local planning policy. Conditions to ensure that the nature of goods for sale are in accordance with the definitions as set out in the retail planning guidelines. Impacts such as overlooking overshadowing and noise and hours of use need to be considered in relation to the adjacent dwellings to the north.

Area Planner's report considers the principle of development to be acceptable in terms of the zoning. Concerns expressed at pre planning stage regarding the massing of the building and proximity to residential scheme to the north Slieve Mish Park. Sectional drawings do not depict dwelling extensions and this to be addressed in request for additional information. Potential for overbearing impact on properties to the north to be assessed. Clarification required regarding parking and details of any mechanical equipment likely to generate noise.

Final Planner's report notes ongoing concern regarding the scale and bulk and impact on the adjacent residential properties and recommends permission subject to conditions including narrowing of the unit to 10m commiserate with the Costa unit.

3.2.2. Other Technical Reports

Environment Report no objection subject to standard conditions.

Transport and Mobility Report outlines need for clarification with regard to proposed parking spaces given conflicting information in application. 32 on proposed roads and paths layout, Architects report indicates 22 spaces.

Drainage report no objection subject to standard conditions.

Road Design. No objection subject to development contribution €35,163.81 in accordance with the development contribution scheme.

3.3. Prescribed Bodies

Irish Water report. No objection subject to connection agreement.

3.4. Third Party Observations

No submissions

4.0 Planning History

16/36977 Cork City Council granted permission to Moto Services Ltd for construction of a 974m² retail warehouse unit and all associated ancillary development works including access, car parking landscaping and signage.

15/36467 Permission granted 2015 for modifications to 12/35485 consisting of an increase in floor area of the permitted mezzanine storage space to 468m² and for use of the units for the sale of household goods.

12/35485 PL28.241755 Permission granted for construction of a retail warehouse unit café and all associated ancillary development works including access car parking landscaping and signage. Appeal was in respect of condition 3 reducing the permitted number of spaces to 30no.

05/29297 Permission granted 2005 for extension to existing retail warehouse units consisting of 2 no retail warehouse units staff facilities and ancillary site development works.

03/26971 Permission granted 2003 for demolition of all existing buildings and construction of a new entrance and access road, car park. ESB substation retail warehouse and associated two storey offices garden centre, service yard boundary fencing walling and diversion of sewer pipe.

5.0 Policy Context

5.1. Retail Planning Guidelines for Planning Authorities April 2012

Metropolitan Cork Joint Retail Study 2013.

5.2. Development Plan

The Cork City Development Plan 2015-2021 refers. The site is zoned Z0-11 – Retail Warehousing. The objective is “To provide for retail warehousing development.” Development is limited to sale of bulky goods with pure comparison retailing not being permitted.

Chapter 4 of the Development Plan contains the Retail Strategy for Cork City and provides guidance with regard to retail warehouse development.

Objectives 4.12 - to improve the quality of retail warehouse /bulky goods floorspace throughout the metropolitan area in accordance with the retail hierarchy and settlement strategy. The preferred location is within district centres or other lands zoned for retail warehousing.

Objective 4.13 – Range of goods sold in retail warehousing to be restricted to the sale of bulky household.

Table 4.2 sets out Metropolitan Cork Retail Floorspace Potential. In relation to bulky goods retail warehousing the figure is 57,555sq.m by 2022. At Paragraph 4.41 it is outlined that the key consideration in determining the distribution of floorspace is the appropriate and sustainable location for such retail activity.

5.3. Natural Heritage Designations

The site is not within a designated area. The closest such sites are the Cork Harbour SPA which is within 2km to the east and Great Island Channel SAC is within 9km to the east.

5.4. EIA Screening

Having regard to the nature of the development it is reasonable to conclude that 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

6.1.1 The appeal is submitted by McCutcheon Halley, Chartered Planning Consultants on behalf of the first party. The appeal relates solely to condition 2 and grounds of appeal are summarised as follows:

- Request the omission of condition 2.
- In the event that the Board considers that further mitigation is necessary, an alternative proposal is provided.
- The condition to restrict the width of the permitted unit to 10m is unnecessarily excessive and contrary to Development Management Guidelines which state that conditions which radically alter the nature of the development is unacceptable.
- Proposal would result in a 32% reduction of the proposed development in terms of width and floorspace, make the proposal unviable from a commercial perspective and will result in the underutilisation of zoned land.
- Development proposed in the application and at RFI stage would not have an adverse impact on residential amenities of the adjoining properties.
- The impact on no 24 and 25 Slieve Mish is mitigated by proposed landscaping buffer. The concern regarding overbearing impact overstated. The building has eaves height 7.7m or OSD 17.429m. The adjoining houses no 24 and 26 Slieve Mish have an eaves level of 15.6m OSD and ridge level 18.82m OSD.

- While the length is 70m, because of the oblique angle of adjoining houses and substantial screen planting proposed the full length of the retail warehouse will not be visible in its entirety from the adjoining houses.
- The separation distance to the original rear wall of 24 and 25 Slieve Mish is over 25m.
- An alternative proposal is outlined in the drawing by Tom Hegarty Architects which maintains the ground floor width of 14.6m but steps in at a higher level so that the parapet level nearest Slieve Mish Estate is just 4.5m in height with an equivalent OSD of 14m. The height only increases to a parapet height of 7.7m or 17.25m OD at a setback distance of 11.9m . Additional tree planting proposed running parallel to the northern elevation.

6.2. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

- 7.1 Section 139 of the Planning and Development Act 2000 as amended provides that where an appeal is made to the Board against only a condition of a permission and where the Board is satisfied that a de novo assessment of the appeal is not required, the Board may issue a direction to the Planning Authority relating to the attachment, amendment or removal of the condition. In the case of the current appeal against condition 2, I am satisfied that the appeal accords with the criteria of Section 139 and therefore I restrict my assessment of the appeal to condition no 2 only.

The condition is as follows: *“The permitted unit shall, in its entirety, be reduced in width to 10m. Prior to the commencement of development, drawings and plans which show this reduction in width and any subsequent front elevational changes shall be submitted to the Planning Authority for written agreement.*

Reason: In the interest of protecting the residential amenities of adjoining properties.”

- 7.2 The condition was imposed arising from concerns with regard to the proximity of the development to the Slieve Mish residential properties and concern that an

overbearing impact would arise having regard to the overall bulk and mass of the structure which extends for a distance of 70m.

- 7.3 I note the Daylight and sunlight report by JODA Consulting Engineers submitted in response to the request for additional information. The analysis took account of the four nearest dwellings 23, 24 25 and 26 Slieve Mish Park, and found that the development is not likely to have a substantial effect on the diffuse skylight enjoyed by these dwellings with each of them meeting one or more to the criteria set out in BR209. The study also shows that the proposal does not give rise to a significant reduction in the access to sunlight in back gardens analysed.
- 7.4 Whilst the first party maintains that further mitigation is not required an alternative stepped proposal is provided which provides for a lower single storey extent parapet height for a distance of 11.8m from the site boundary. I consider that this alternative offered suitably mitigates the visual impact and ensures that the proposed development is not overbearing in terms of its impact on established residential amenity. This coupled with landscaping proposals will aid integration of the proposed unit into the context. On this basis I recommend that condition 2 is amended as set out below.
- 7.5 On the issue of appropriate assessment having regard to the nature and scale of the proposed development in a fully serviced built up urban area, 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.

8 Recommendation

I have read the submissions on file, visited the site, and have due regard to the provisions of the Cork City Development Plan 2015-2021 and all other matters arising. Having regard to the nature of the condition the subject to the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the

reasons and considerations set out below directs the said Council under Section 139 of the Planning and Development Act 2000 to amend the condition no 2 as follows:

Reasons and Considerations

Having regard to the nature and scale of the development, to the pattern of development in the area, it is considered that subject to amended condition the proposal would not seriously injure the residential or visual amenities of the area and is in accordance with the proper planning and sustainable development of the area.

Condition 2

2.	The roof profile of the unit shall be stepped in accordance with revised plans and particulars received by An Bord Pleanála on the 31 st day of March 2020. Reason: In the interest of visual and residential amenity.
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Bríd Maxwell
Planning Inspector

04 August 2020