



An
Bord
Pleanála

Inspector's Report

ABP-307494-20

Development	Construction of 90 space car park and upgraded entrance.
Location	35 John Street, Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	20/114
Applicant	City Lime Works Properties
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant	City Lime Works Properties
Observers	(1) Eddie Langton (2) An Taisce
Date of Site Inspection	02.09.2020
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located in a central area of Kilkenny city, approx. 300 metres west of Kilkenny Railway Station.
- 1.2. The site has a gravel surface. It is relatively flat with site boundaries primarily comprised of block walls. There is an existing public car park to the north west and north east (Wolfe Tone Street Car Park) with a funeral home building located within the public car park on the north eastern site boundary. The rear of properties addressing John Street Upper are to the south east and the car park of The Kilford Arms is to the south west. The site is accessed by way of a vehicular gate connecting to the public car park in the north west corner of the site.
- 1.3. The site has a stated area of 0.244 hectares.

2.0 Proposed Development

- 2.1. The application is for permission for a 90 no. space car park.
- 2.2. In addition to standard planning application plans and particulars the application was accompanied by a cover letter, an Engineering Report, a Parking Need Document which outlines the requirement for long-term car parking for the staff of businesses in the environs of John St. which would free up short-term spaces for customers, and a Traffic Impact Assessment.

3.0 Planning Authority Decision

3.1. Decision

The planning application was refused for one reason as follows:

1. The proposed development is deemed premature pending the publication of the Draft Kilkenny City and Environs Development Plan and the Transport Plan for Kilkenny City, due in the third quarter of 2020, which will determine future car parking within the city. Presently, there is sufficient car parking (over 1,500

spaces) both on street, public and private car parks all within a 5 minute walk of this site, thus the need for this car park is not presently justifiable and premature pending the new Kilkenny City and Environs Development Plan and the Transport Plan for Kilkenny City.

3.2. Planning Authority Reports

3.2.1. The Planning Officer's report forms the basis of the planning authority decision. The recommended reason for refusal is the same as that set out in the decision.

3.2.2. The Senior Planner further commented on the Planning Officer's report that also of consideration was that the application was aimed at long stay car parking, the current parking strategy for the city is to have short stay parking in the city centre, it is proposed to change the existing public car park's daily rate to an hourly charge, there continues to be development of pedestrian and cycle links and bus services in the city and environs providing alternative modes of travel which will contribute to managing demand, the site is within the City Centre Local Area Plan (LAP) boundary which provides for short term parking and, as part of the review of the Kilkenny City and Environs Development Plan, the Council is undertaking a Local Transport Plan which will further develop transport policy and objectives.

3.2.3. Other Technical Reports

Conservation Officer – No objection subject to conditions.

Road Design – No objection in principle. It is understood that the Municipal District Office is undertaking a review of the entire parking layout at the Wolfe Tone Street car park which will have regard to current parking, pedestrian connectivity, access to existing private parking facilities, traffic circulation and potential future development. It is understood an alternative layout may be proposed which may affect the proposed entrance layout arrangement. Accordingly, the applicant shall consult with the District Engineer to agree the access layout in order to optimise the layout and access arrangements for the overall Wolfe Tone Street car park. (The Planning Officer's report states no Roads report had been received and the grounds of appeal also cites the fact that no report had been received. It appears this report was received after the Planning Officer's report had been prepared).

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

P.A. Reg. Ref. 16/417 – A temporary five year permission was granted in 2016 for a private surface level car park, alteration of adjacent (Kilford Arms) car park entrance to form combined entrance etc. The current application states this has not been progressed.

P.A. Reg. Ref. 15/429 – Permission was refused in 2015 for a five year temporary permission for a surface level car park for 3 no. reasons: (i) having regard to the availability of substantial numbers of spaces in public car parks in close proximity, the provision of a further car park will encourage private car use leading to additional trips and congestion in an area where the Council aims to reduce car usage and encourage a modal shift, (ii) the public car park is already being used as a pedestrian and bicycle access to St. John's Junior School and to the city centre and the additional traffic through the public car park would endanger pedestrian and cyclist safety by reason of traffic hazard and (iii) the LAP aims to locate long-term car parking outside the LAP area.

5.0 **Policy Context**

5.1. **National Planning Framework, Project Ireland 2040 (NPF)**

- 5.1.1. National Policy Objective (NPO) 13 – In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve

targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

5.2. Regional Spatial & Economic Strategy for the Southern Region (RSES)

- 5.2.1. Section 6.3.5 (Regional Policy Objectives (RPO) for the Integration of Transport Planning with Spatial Planning Policies) contains RPO 151. This sets out principles of land use and transport integration that will guide development. Subsection (c) states that 'larger scale, trip intensive developments, such as offices and retail, will be focused into central locations highly accessible by sustainable transport modes'. Subsection (f) states that 'all non-residential development proposals will be subject to maximum parking standards as a limitation to restrict parking provision to achieve greater modal shift'. Subsection (g) states that 'in locations where the highest intensity of development occurs, an approach that caps car parking on an area-wide basis will be applied'.
- 5.2.2. RPO 163 (Sustainable Mobility Targets) states, in subsection (a) that it is an objective that, inter alia, 'significant progress is sought for the Southern Region to reduce the modal share of private car travel and increase the modal share of travel by walking, cycling, public transport and car sharing'. Subsection (c) supports National Smarter Travel Targets which seek to achieve a reduction of work-related commuting by private car to 45% of modal share by 2020.

5.3. Kilkenny City & Environs Development Plan 2014-2020

- 5.3.1. The site is in an area zoned 'General Business'. This has an objective 'to provide for general development'. A car park is a permissible use according to Section 3.4.5.4 (General Business).
- 5.3.2. The site is within the boundary of John Street Architectural Conservation Area (ACA). A description, historical background, statement of character and development management standards are set out in Section 7.4.7.4 (John Street ACA).
- 5.3.3. Section 3.4.3 (Core Strategy and Zoning – Development Strategy – City Centre Area) states that, though the City Centre LAP 2005 has expired, the Borough Council will continue to implement certain provisions. This includes Section 2 of the LAP relating

to transport, car parking, urban design and land uses and is cited as Objective 3E of the Development Plan and Section 3 relating to the urban design frameworks and land uses for specific sites and is cited as Objective 3F.

- 5.3.4. Car parking is specifically referenced in Section 10.4.8 (Car parking) of the Plan. It states that, during the period of the last Plan, on-street parking charges were introduced to, inter alia, reduce congestion, control commuter parking and ensure parking spaces for people who wish to do business in the city. There are two parking zones, a zone of limited stay parking in the city centre and an all-day charged parking zone within the outer boundary. This section contains development management standards and car parking standards for different land uses.

5.4. Kilkenny City Centre Local Area Plan 2005

- 5.4.1. As noted in the previous section, though this has expired, certain provisions, including Section 2, will continue to be implemented.
- 5.4.2. One of the principle aims of the LAP was to provide a framework for existing and future car parking requirements. Section 2.1.5.2 (Future Car Parking Provision, Demand and Management) states parking within the LAP boundary should mainly be reserved for short-term use or for local residents. Any further long-term provision should ideally be located outside the boundary of the LAP. In addition, Section 2.1.5.3 states that the oversupply of parking can lead to excessive numbers of car trips and loss of land banks that could be used for more sustainable land use purposes.
- 5.4.3. Ref. OS5 states that it is an objective to remove all existing surface car parking at the Wolfe Tone St. car park and develop a new multi-storey car park. An Urban Design Framework for the Wolfe Tone St. car park area is set out in Section 3.4. The 'Indicative Site Organisation' drawing shows the footprint of the multi-storey car park occupying the south eastern portion of the site subject of the current planning application with a pocket park in the north western area.

5.5. Natural Heritage Designations

- 5.5.1. The closest Natura 2000 sites are River Nore SPA and River Barrow and River Nore SAC approx. 200 metres to the west.

5.6. EIA Screening

- 5.6.1. 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 grounds of appeal can be summarised as follows:

- Precedent has been set by previous planning decisions:
 - P.A. Reg. Ref. 14/289 – Permission granted in 2014 to construct 11 no. parking spaces for O’Gorman’s public house approx. 100 metres to the east.
 - P.A. Reg. Ref. 15/76 – Permission granted in 2015 for a ten screen cinema and 85 parking spaces approx. 200 metres to the north.
 - P.A. Reg. Ref. 16/417 – Permission granted in 2016 for a temporary five-year permission on site.
 - P.A. Reg. Ref. 18/762 – Retention permission granted in 2019 for the temporary retention of a 45 no. space surface car park at the train station.
- Car parking is allowed under the zoning objective of the Kilkenny City & Environs Development Plan 2014-2020. Objective 3N of a variation of the Plan states it is an objective to provide for park and walk facilities for car and bus/coach parking at a site or sites in close proximity to the Abbey Creative Quarter Masterplan area to service both the Masterplan area and the city centre

generally taking into account the mobility management plan for the city. The site is no more than 400 metres from the Abbey Creative Quarter site.

- To refer to and rely on an LAP that is fifteen years old is not practicable or to best practice.
- The Council are themselves in direct contravention of their own Plan by the direct operation of long-term parking and endorsing private long-term car parks within the LAP boundary. The Council Planning Section is inconsistent in terms of directing policy and abiding by its own Development Plan.
- The aim of the application is to indirectly address the need for adequate short-term parking in the John Street environs. By identifying the requirement of staff parking in the area these vehicles can be removed from public spaces and allow customers use the spaces as short-term parking. An analysis of the findings is shown in the submitted Parking Need Document. Respondents stated the need for additional short-term parking and the large volume of staff using public spaces. The primary aim of the application is to provide additional long-term parking for staff members only. The problem will deteriorate further in the coming years. The Council recently recognised the need for additional short-term parking by introducing revised charges in the Wolfe Tone St. car park which has compounded the problem of staff parking (pre- 16.06.2020 €2 per day, post-16.06.2020 €1 per hour, maximum €5 charge).
- The development is deemed premature pending the publication of the Draft Kilkenny City & Environs Development Plan and Transport Plan due in Q3 2020. It is the applicant's understanding that accurate traffic volumes/surveys are not available because of current Covid restrictions. The traffic model requires these figures for an accurate assessment. This will effectively push the plan out to the end of 2021. The planning section had an opportunity to grant a temporary permission for the interim period.
- The applicant strongly disagrees with the description of 'sufficient' car parking (over 1,500 spaces) in the planning report. A more accurate and robust analysis should have been compiled to make such a decisive refusal reason. There are no Area Engineer or Roads Section reports and the distinct lack of facts and figures shows guess work and assumptions. The applicant considers there are

2,299 spaces available within a five-minute walk (500 metres radius) as set out in a table. Ample parking is available, but it is not tailored for the staff members of the businesses of John St. environs. On-street parking in the area is limited to residential permit holders.

- A 'Wolfe Tone St. Car Parking Assessment' was presented by the Area Engineer at the Kilkenny Municipal District Meeting on 12.06.2020. This effectively changed the car park from a long-stay to a short-stay operation. This decision was taken without the benefit of the forthcoming Transport Plan. The assessment states the charging regime is required to encourage greater use of the car park by customers of businesses in the John St. area. The applicant agrees with the need for customer parking, but the staff of businesses have no reasonably priced long-term parking which the application is trying to solve. Alternative long-stay parking options referenced in the assessment are MacDonagh Junction Shopping Centre (closes at 9pm) and IMC Cinema which will require all their spaces for staff and customers after 6pm. The application will provide 24-hour parking. Also, both car parks are within the LAP boundary which was a reason for refusal for P.A. Reg. Ref. 15/429, but the Council now encourage its use as long-term parking. The proposed car park also has overflow capacity for festivals or GAA matches.
- Public transport is limited. Car pooling is not encouraged because of Covid so individual car journeys will increase. This will change parking culture.
- The absence of Area Engineer and Road Design reports highlights a low level of accurate information available.
- The Planning Officer's report does not address all issues, is incomplete, the decision was arrived at hastily and was a one-sided assessment.
- The applicant agrees a new Transport Plan is needed. In the meantime the need for staff parking still exists. If the Board considers a permanent permission is unacceptable it is requested a three-year permission is granted with a two-year extension if plans have not progressed. A temporary permission will achieve the best result for businesses until plans are adopted and discussion on a multi-storey car park are started.

6.2. Planning Authority Response

6.2.1. The planning authority has no further comments to make.

6.3. Observations

Two observations were received from Eddie Langton, proprietor of Langton House Hotel, 69 John St. and An Taisce. The points made can be summarised as follows:

Eddie Langton

Supports the application. The hotel car park is regularly unable to cover all its needs. Staff struggle to find a cost-effective proper parking solution. There can be issues with parking for weddings. The hotel car park cannot cope with demand for people attending the theatre. There can be issues for restaurant patrons, on Sundays in particular. The new car park would help alleviate these issues. A strip of wasteland would be developed into something benefitting the street and its businesses.

An Taisce

The site is within John St. ACA. The city centre is well-served by car parks. Traffic reduction measures are desirable and safe walking routes and shielded cycleways should be prioritised over vehicular traffic. Further encouragement of car usage is the wrong message in the face of climate change. An Taisce is opposed to the provision of further car parks in the city centre but would support provision of peripheral car parks. The Council's decision is supported.

7.0 Assessment

Having examined the application details and all other documentation on file, including the observations received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Zoning
- Access and Layout

- The Proposed Development in the Context of the Policy Framework
- Appropriate Assessment

7.1. Zoning

7.1.1. The proposed development is in an area zoned for general business use. A car park is a permissible use under this zoning objective in the Kilkenny City & Environs Development Plan 2014-2020. The principle of the development is therefore acceptable, subject to the detailed considerations below.

7.2. Access and Layout

7.2.1. The site is accessed by way of the existing Wolfe Tone St. public car park. Though this was included as a reason for refusal under P.A. Reg. Ref. 15/429, permission was subsequently granted under P.A. Reg. Ref. 16/417.

7.2.2. There is an existing access point in the north west corner adjacent to the Kilford Arms car park which has a barrier at the access point. Car parking spaces are provided along both eastern and western boundaries with double spaces centrally divided by a kerbed island. There is a 6-7 metres wide circulation aisle around the car park. Disabled spaces, bicycle parking and public lighting is provided. The spaces are identified as having dimensions of 5 metres x 2.5 metres. Section 10.4.8 (Car parking) of the Development Plan 2014-2020 outlines the dimensions of car parking bays as 4.8 metres x 2.4 metres.

7.2.3. A drawing showing sightlines at the entrance/exit point has been provided. While there is a public car park, the adjacent Kilford Arms car park and pedestrians and bicycle users also traverse the public car park, the overall area is a low speed traffic environment and I do not consider that the significant intensification of the existing access point would result in any undue traffic hazard to any users of the area.

7.2.4. I consider the proposed car park to be acceptable in terms of access and general layout.

7.3. The Proposed Development in the Context of the Policy Framework

- 7.3.1. While the Kilkenny City & Environs Development Plan 2014-2020 states that a car park is a permissible use in this zoned area, Section 3.4.5 (Zoning Objectives) states that a permissible use is still the subject of the normal planning process. In relation to development of the type proposed there are national, regional and local policies that affect the proposed use.

National Planning Framework

- 7.3.2. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to 2040 and is a framework to guide public and private investment and to protect and enhance the environment. Four key areas are outlined in Section 2.6 (Securing Compact and Sustainable Growth). The first key area, 'the 'liveability' or quality of life of urban places', includes the quality of the built environment including the public realm, traffic and parking issues.
- 7.3.3. Section 4.5 (Achieving Urban Infill/Brownfield Development) (Performance Based Design Standards) states that to enable brownfield development, planning standards need to be flexible and focus on performance-based outcomes rather than specifying absolute requirements. Section 4.5 states that, in particular, universal standards for car parking may not be applicable in all circumstances in urban areas. NPO 13 states that, in urban areas, planning and related standards, including car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.

Regional Spatial & Economic Strategy for the Southern Region

- 7.3.4. The RSES is a 12 year strategic regional development framework for the southern region. It establishes a broad framework for the way in which our society, environment, economy and the use of land should evolve and it primarily aims to support the delivery of the programme for change set out in the NPF and National Development Plan 2018-2027.
- 7.3.5. RPO 151 sets out principles of land use and transport integration that will guide development. There are a number of subsections in this RPO. These include subsection (c) which states that 'larger scale, trip intensive developments, such as offices and retail, will be focused into central locations highly accessible by sustainable

transport modes', subsection (f) which states that 'all non-residential development proposals will be subject to maximum parking standards as a limitation to restrict parking provision to achieve greater modal shift' and subsection (g) which states that 'in locations where the highest intensity of development occurs, an approach that caps car parking on an area-wide basis will be applied'.

- 7.3.6. RPO 163 (Sustainable Mobility Targets) states, in subsection (a) that it is an objective that, inter alia, 'significant progress is sought for the Southern Region to reduce the modal share of private car travel and increase the modal share of travel by walking, cycling, public transport and car sharing'. Subsection (c) supports National Smarter Travel Targets which seek to achieve a reduction of work-related commuting by private car to 45% of modal share by 2020.

Kilkenny City & Environs Development Plan 2014-2020

- 7.3.7. The Plan states that during the previous Plan, on-street charges were introduced in an effort to, inter alia, reduce congestion, control commuter parking and ensure spaces for people who wished to do business in the city.

Kilkenny City Centre Local Area Plan 2005

- 7.3.8. Though this LAP has expired, Section 3.4.3 of the Kilkenny City & Environs Development Plan 2014-2020 states that certain provisions, including Section 2, will continue to be implemented.
- 7.3.9. One of the principal aims of the LAP was to provide a framework for existing and future car parking requirements. Section 2.1.5.2 (Future Car Parking Provision, Demand and Management) states parking within the LAP boundary should mainly be reserved for short-term use or for local residents. In addition, Section 2.1.5.3 states that the oversupply of parking can lead to excessive numbers of car trips and loss of land banks that could be used for more sustainable land use purposes. Ref. OS5 states that it is an objective to remove all existing surface car parking at the Wolfe Tone St. car park and develop a new multi-storey car park.

Assessment of the Proposed Development in the Context of the Policy Framework

- 7.3.10. National, regional and local policy documents refer to the issue of car parking provision, both directly and indirectly. A theme common to all is the emphasis on reducing the reliance on the private car and increasing a modal shift to public transport

and more sustainable forms of transport. In the NPF, car parking will be based on performance criteria that seek to achieve well-designed quality outcomes. I do not consider provision of an additional car park, adjacent to three other car parks in a city centre area, can be considered to be a well-designed high quality outcome. It is an inappropriate use of land that does not contribute to the liveability or quality of life of urban places. Policy RPO 151 of the RSES states that maximum parking standards will be provided to achieve a greater modal shift and in highest density areas an approach that caps car parking on an area wide basis will be applied. Providing another 90 space car park, adjacent to the public car park at Wolfe Tone St., The Kilford Arms car park and the public car park at John's Green would further contribute to a proliferation of car parking within this city centre area which would be in direct conflict with RPO 151 and RPO 163 of the RSES and may militate against a more appropriate development of the land in the context of its central location.

- 7.3.11. The Kilkenny City Local Area Plan 2005 is quite dated. Notwithstanding, it contains applicable policy for the site as per Section 3.4.3 of the Development Plan 2014-2020. It states that car parking within the LAP boundary should mainly be reserved for short-term use or by local residents. It also states that the oversupply of parking can lead to excessive numbers of car trips and loss of land banks that could be used for more sustainable land use purposes. I consider this statement is applicable to this application.
- 7.3.12. While I note the rationale behind the application i.e. to provide long-term parking for the staff of businesses in the area, I do not consider national, regional or local policy in relation to transport/car parking supports the proposed development. Further increasing parking provision would only serve to encourage further private car trips, would adversely impact the use/provision of public transport infrastructure or use of more sustainable modes of transport and it may compromise future plans or projects. The grounds of appeal refer to the current Covid situation in terms of public transport, car sharing and increased private car trips, but I do not consider an inappropriate long term development can be justified on an issue like this. In addition, as I consider the current car park application to be inappropriate, I consider that it would also be inappropriate as a temporary permission.
- 7.3.13. The forthcoming Development Plan and Transport Plan may contain a comprehensive review of car parking in the city centre area. It is possible that it may contain an

objective, such as Objective OS5 of the LAP, to remove all existing surface car parking at the Wolfe Tone St. car park and develop a new multi-storey car park. Alternatively, it may contain a different approach. Notwithstanding, in the current policy framework, I consider the development of a 90 space surface level car park is not consistent with national, regional or local policy.

Conclusion

7.3.14. National and regional policy aims to reduce private car travel and to increase the use of public transport and more sustainable modes of transport. The LAP 2005 states that the oversupply of parking can lead to excessive numbers of car trips and loss of land banks that could be used for more sustainable land use purposes. The provision of an additional car park at this location would further encourage private car journeys and would be contrary to the policy framework. Therefore, I consider the planning application should be refused on this basis.

7.4. Appropriate Assessment

7.4.1. 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 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

I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to National Planning Objective 13 of the National Planning Framework, which states that planning and related standards on matters including car parking will be based on performance criteria that seek to achieve

well-designed high quality outcomes, Regional Policy Objectives 151 and 163 of the Regional Spatial & Economic Strategy for the Southern Region, which relate to parking and sustainable transportation, and the provisions of the Kilkenny City Centre Local Area Plan 2005, the proposed development would encourage the use of the private car for travel and commuting into the city centre area, would militate against reducing the modal share of private car travel and increasing the modal share of travel by walking, cycling, public transport and car sharing. The development would be contrary to national and regional objectives which support sustainable modes of transport and would, therefore, be contrary to the proper planning and sustainable development of the area.

Anthony Kelly

Planning Inspector

28.09.2020