



An
Bord
Pleanála

Inspector's Report ABP 307521-20

Development	Café building for preparation and sale of food and beverages for consumption on and off the premises, associated signage, bin storage, outdoor seating, hard and soft landscaping, 10 cycle spaces, 2 universal access spaces.
Location	Dunlo, Ballinasloe, Co Galway.
Planning Authority	Galway County Council.
P.A. Reg. Ref.	20 229
Applicant	Tesco Ireland Ltd.
Type of Application	Permission
Decision	Refuse Permission
Type of Appeal	First Party x Refusal
Appellant	Tesco Ireland Ltd.
Observer	Michael McCullagh
Date of Inspection	14 th September, 2020,
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site has a stated area of 020 hectares and is subdivided area in the north west corner of the carpark for the Tesco store at Dunlo which is accessed off a roundabout. An Aldi store, with a separate access road and carpark is located to the east.
- 1.2. To the north west there are sports fields and clubs on the far side of amenity lands and undeveloped lands adjoining the Tesco carpark. undeveloped lands to the north west beyond which there are residential estates. There is an extant grant of permission for development of a cinema on lands to the north adjacent to the application site and that of the Aldi store which has not been taken up to date. (P. A. Reg. Ref 18 1525 refers.) There are extant grants of permission for residential development on lands to the south east for residential development and a creche. (P. A. Reg. Ref.19/1978 refers.)

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for construction of a detached, Café building for preparation and the sale of food and beverages for consumption on and off the premises, associated signage, bin storage, outdoor seating, hard and soft landscaping, 10 cycle spaces, 2 universal access spaces. The application submission includes details of surface, foul and water supply arrangements including drawings, a statement on trip generation and a planning statement.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 12th June, 2020, the planning authority decided to refuse permission on grounds that:

1. The proposed development is premature and inconsistent with the zoning objective in the LAP taking into account the proposed location, configuration and layout.

2. Absence of consent from Irish Water for connection to public infrastructure.
3. Absence of an itemised parking schedule – to demonstrate compliance with DM Standard 22 of the CDP as a result of which the proposed development may result in traffic hazard and inconsistency with the objectives of the LAP.

3.2. **Planning Authority Reports**

- 3.2.1. The planning officer in his report notes the lack of a retail impact assessment in the application and recommends refusal of permission on grounds there is no justification for a café at the subject location based on the three reasons attached to the order.

The Area Engineer's report is referred to in the planning officer report but is unavailable on the Board file or in the planning authority's electronic file.

3.3. **Third Party Observations**

Ten submissions were lodged with the planning authority in which issues of concern raised are that of potential for adverse impact on the viability and vitality of the town centre where enhancement works to the public realm are taking place and, adverse impact on traffic flow and safety and demand for parking.

4.0 **Planning History**

P. A. 07/9104: This is the original, parent grant of permission for the retail park in which the application site within the Tesco store carpark is located. Permission for the associated road network and roundabout was granted under P. A. Reg. Refs 06/090 and 07/9022)

P. A. Reg. Ref 10/9003, Permission was granted for retention of an extension of conveniences and comparison sales space, within the storage space at the Tesco store.

5.0 Policy Context

5.1. Development Plan

The operative County development plan is the Galway County Development Plan, 2015-2021.

According to DM Standard 22, there is a requirement for 1 space per 10 square metres dining area for a cafe.

5.2. Local Area Plan.

The operative local area plan is the Ballinasloe Local Area Plan, 2015-2021 according to which the site is within an area subject to the zoning objective "C2: *"Promote the development of commercial and complementary mixed uses on suitable lands that can provide focal points for the provision of services to surrounding neighbourhoods/areas and opportunities for commercial enterprises, retail development and employment creation and which do not undermine the vitality and viability of the town centre."* Café use is permitted in principle, subject to compatibility with the policies and objectives of the development plan and the proper planning and sustainable development of the area.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Avison Young on behalf of the applicant on 9th July, 2020 which includes a statement from the applicant's consulting engineers incorporating a TRICS Analysis and, an appropriate assessment screening report prepared by Doherty Environmental Consultants.

6.1.2. According to the appeal:

- An additional information request should have been issued in respect of the issues in the reasons attached to the decision to refuse permission, in accordance with the recommendations in the Development Management Guidelines, (RPG) because the outstanding requirements could have been

submitted to the planning authority. There is no meaningful background in the planning officer report on how the decision was arrived at and as to why the proposal is considered premature because the proposed café is appropriate at present in serving, in an ancillary capacity, the existing supermarket where infrastructure is in place. The proposed café does not preclude future development on lands to the west and to the north.

- The applicant seeks to improve and enhance the offer available to customers, to complement the supermarket and the future, permitted cinema development, future residential development to the east and to improve the appearance and amenities of the area and the proposed café is an ancillary offer.
- The proposed café use is permitted in principle. It is not the intention of the applicant to compete with or undermine the town centre. The café size at 232 square metres in floor area, which is ancillary to the supermarket and improves its customer offer and experience. It is not of a scale that would undermine the town centre because it is small scale, there is no necessity for a retail impact statement to be prepared. This view is shared by the inspector who in his report on an appeal in respects of café development in Wicklow stated that a café is not retail in a nature warranting assessment of impact on a main shopping street and, is a use increasingly common in peripheral out of town locations such as retail parks where they are compatible. Similar views have been taken in respect of appeal cases under PL 245905 at Globe Retail Park, Naas and at Liffey Valley Retail Park under PL 305493.
- The proposed development progresses the zoning in that it is a complementary mixed use in a serviced area, and it benefits the existing and future development in the surrounding area.
- The existing services infrastructure within the site is under private control and given the negligible quantum of discharge and supply required, pre-connection enquiries were not made and would not have been considered necessary by Irish Water. There would be no additional loading on surface water discharge as with and without the development is as like for like scenario. The appropriate assessment screening report included with the

appeal demonstrate that there is no hydrological link or potential for discharge to the River Suck/Callows SPA.

- The existing 427 spaces in the carpark serves the Tesco Store the gross floor area of which is 5,489 square metres. A parking accumulation study, submitted with the appeal in which trip generation information from the TRICS report was utilised demonstrates capacity in the existing carpark to serve the café, in spite of the removal of thirty spaces. At lunchtime, when demand peaks, 196 spaces are occupied. The four hundred spaces that would remain available is well in excess of peak demand and can cater for the existing and proposed development.

6.2. Planning Authority Response

No submission was received from the planning authority.

6.3. Observations

An observation was received from Michael McCullagh on 28th July, 2020 according to which the proposed development:

- Contravenes the grant of permission for the Tesco store as it reduces carparking spaces due to the larger floor area of buildings and potential precedent for further expansion at the Tesco site to the detriment of the town centre.
- Direct competition with and detrimental impact on with the town centre which is historic and where enhancement and upgrade works for the streets, which are supported, has resulted in reduced carparking spaces.
- Lack of information on the intended hours of business.

7.0 Assessment

7.1. The issues central to the decision and considered below are that of:

Justification for a café at the site location.

Water supply and foul and surface water infrastructure.

Parking and trip generation

Environmental Impact Assessment Screening.

Appropriate Assessment

7.2. Justification for a café at the site location.

- 7.2.1. It is agreed that a requirement for a retail impact assessment report is inappropriate, having regard to the recommendations within the RPGs, for café development at out of town locations such as retail warehousing or office parks.
- 7.2.2. The reports of the Inspectors on the two appeal cases referred to in the appeal, in support of the applicant's case have been reviewed. (PL245905 at Globe Retail Park, Naas, and PL 305493 -Liffey Valley Retail Park refer.) The similar café developments subject of these successful appeals are at sites within retail warehousing developments in which the outlets are confined to the sale of bulky and white goods as opposed to the site of the current proposal in a carpark serving a convenience good retailing outlet such as the Tesco supermarket at Dunlo in Ballinasloe. As such the current proposal is not entirely comparable for the purpose of establishing precedent.
- 7.2.3. The C2 zoning within the LAP, which permits café use in principle, provides for complementary commercial and mixed uses, "*that can provide focal points for the provision of services to surrounding neighbourhoods/areas and opportunities for commercial enterprises that do not undermine the vitality and viability of the town. centre.*" This zoning objective is broad ranging and quite distinct from a zoning objective for a retail warehousing/retail park use which is relatively specific, confined, car dependant for customers and distinct from town centre and retail and commercial land use.
- 7.2.4. The size of the proposed unit allows for a relatively significant operation, providing for preparation and the sale of hot and cold food for consumption on and off the premises. Potentially it could be occupied by franchises, which could include fast food outlets, as sandwich bars and cafes. The proposed location for the café is at the corner of the carpark at a considerable distance from the supermarket. Bearing the stand-alone nature and size in mind, it is questionable as to whether the proposed development can be regarded as being 'ancillary' to the supermarket use.

(i.e. a high proportion of the visits to the café are concurrent with and, part of a supermarket shopping trip as to the café being the sole destination.)

7.2.5. While it is stated in the applicant's submissions that the café use is intended to be ancillary to the Tesco supermarket it is also stated that the intended catchment for the café includes the permitted cinema development and existing and permitted residential developments. There are sports club facilities to the north, north west and north east of the application site, permitted residential development to the south east and some commercial and developments along the route between the site and town centre. It can be reasonably be assumed, given the distances from the town centre and from the application site to these locations both options for café visits come within the same catchment although the application site might be regarded as the more convenient option due to greater ease of vehicular access and parking.

7.2.6. In view of the foregoing, given the stand alone nature of the building, its size and location remote from the supermarket and close to permitted and existing developments it is considered that the proposed development would not be "ancillary" to the supermarket and, that it would adversely affect the potential for similar development within the town centre as a result of which it would undermine the vitality and viability of the town centre which is a development objective as provided for under the 'C2' zoning within the Ballinasloe Local Area Plan, 2015-2021.

7.3. **Water supply and foul and surface water infrastructure.**

7.3.1. It is reasonable for the connection agreements to be subject to a condition, should permission be granted. The proposed development while necessitating additional demand on the capacity of public water and drainage infrastructure facilities and insignificant variation in quantum of surface water runoff at the Tesco site. It is therefore recommended that the reasoning for refusal of permission due to lack of evidence of consent from Irish Water for connection to public infrastructure be rejected.

7.4. **Parking and trip generation**

7.4.1. The applicant's submissions do not include details as to the precise nature of the future tenancy of the proposed café unit other than that it is to provide for hot and cold food for consumption on and off the premises. There is a likelihood that the

higher the proportion of take-away customers, the greater the generation of trips and turning movements.

7.4.2. The Parking accumulation study is based on TRICS modelling used in Supermarket and shopping centre developments in the UK as opposed to surveys or data associated with the application site and as such its reliability for the application site could be questionable. However, notwithstanding current development plan standards for parking requirements as represented in DM standard 22, it is considered that there is more than adequate on site parking facilities available to serve the existing Tesco outlet, that the loss of spaces required to facilitate the proposed development and the additional requirement generated would adversely affect the availability of parking for customers visiting the supermarket.

7.4.3. Furthermore, an element of dual parking use is likely with carpark users using both the café and supermarket outlet, or surrounding shopping and entertainment facilities. Finally, while the location is circa 700 metres from the town centre customers/diners will also be within walking and cycling distance. It is therefore recommended that the reasoning for refusal of permission due to insufficient parking therefore be rejected.

7.5. Environmental Impact Assessment Screening.

7.5.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

8.0 Appropriate Assessment Screening.

8.1.1. An appropriate assessment screening report is included with the appeal and it has been consulted for screening purposes.

8.1.2. The River Suck Callows SPA is circa 600 metres to the north east of the application site and its special conservation interests are whooper swan, wigeon, golden plover, lapwing, Greenland white fronted goose and wetland and waterbirds. Potential threats would that of contamination of waters in the river, noise or visual disturbance

to birds being eliminated due to in that the site is well beyond the buffer zone of 300 metres of the SPA.

8.1.3. There are no functional hydrological source pathway links between the proposed development and the receiving waters within the SPA. Foul water from the development the quantum of which is negligible will discharge to the public sewer network prior to treatment and disposal and the quantum of surface water generated will be unchanged, relative to the predevelopment scenario.

8.1.4. Having regard to the planning history for the site, the zoning objective, the location of the site which is on serviced land, to the existing development on the site and in the vicinity and, to the nature and scale of the proposed development, no appropriate assessment issues arise, 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

9.0 Recommendation

9.1. In view of the foregoing, it is recommended that the planning authority decision be upheld, based on the draft reasons and considerations which follow.

10.0 Reasons and Considerations

Having regard to the Ballinasloe Local Area Plan 2015-2021 according to which the site come within an area subject to the zoning objective: *“C2: Promote the development of commercial and complementary mixed uses on suitable lands that can provide focal points for the provision of services to surrounding neighbourhoods/areas and opportunities for commercial enterprises, retail development and employment creation and which do not undermine the vitality and viability of the town centre,* to the stand alone building, and its size and location remote from the supermarket and, close to permitted and existing developments it is considered that the proposed development would not be “ancillary” to the supermarket and would would adversely affect the potential for similar development within and enhancing the town centre. As a result, the proposed development would undermine the vitality and viability of the town centre which would be contrary to the

development objective of the Ballinasloe Local Area Plan, 2015-2021 and would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
25th September, 2020.