



An
Bord
Pleanála

Inspector's Report

ABP-308181-20

Development	Permission to construct new car-park entrance onto public roadway LP01210 including boundary treatment & associated siteworks, works also included alterations to carpark layout and delineated site boundary granted under planning file 19/250
Location	Main Street, Emyvale, Co. Monaghan, H18 E772
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	20/101
Applicant(s)	Glyn Williams.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party.
Appellant(s)	Ann and Martin Watters.
Observer(s)	None.

Date of Site Inspection

8th December 2020.

Inspector

Barry O'Donnell.

1.0 Site Location and Description

- 1.1. The subject site is located at Glaslough Road (LP01210), Emyvale and currently consists of side garden parcel, which provides access onto a rear carpark, which serves a Centra retail store and petrol filling station.
- 1.2. The Centra store and petrol filling station are currently accessed directly from Main Street, the N2, with two-way access to the car park provided immediately north of the forecourt.
- 1.3. The Centra store addresses both Main Street and the forecourt and there is a long storage unit abutting Glaslough Road, leading to the subject site. The existing car park provides 30 parking spaces. It is bound to the east and north by a capped and plastered wall, 2.4m high.
- 1.4. The commercial site is adjoined to the east and north by residential properties, the north-adjointing property owned by the applicant, and is in a centre-village location.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a new carpark entrance onto Glaslough Road, including boundary treatment, alterations to carpark layout approved under 19/250 and associated works.
- 2.2. The proposed access would incorporate 6m turning radii and an internal carriageway width of 6m, allowing two-way traffic flows, and would provide a 2m x 36m visibility westward and a 2m x 49m visibility splay eastward. The access would be enclosed to the west by an existing storage building with a landscaped strip and 2m wide footpath access in between and by a 1.8m high wall to the east, which would be graded down to match an existing dwarf wall which runs along the front of the east-adjointing residential property.
- 2.3. Proposed alterations to the car park layout are minor, relating to rearrangement of the turning head adjacent to the north-east boundary and facilitation of the access and footpath route into the main area of the car park.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 20th August 2020 Monaghan County Council granted permission for the proposed development, subject to 3 No. planning conditions.

- Condition No. 1 required the development to be carried out prior to the expiry of 5 years from the date of the final grant of permission Reg. Ref. 19/250
- Condition No. 2 related to roads and drainage requirements and required that visibility splays of 49m to the east and 36m to the west should be provided, that the access should be surfaced with suitable materials for at least 5m from the edge of the road, drainage should be incorporated at the access, surface water should not drain onto the public road, the public road should be kept clear of debris, etc, and a deposit of €2,250 to ensure that works are carried out in accordance with all planning conditions.
- Condition No. 3 required the development should be carried out in accordance with permission Reg. Ref. 19/250.

3.2. Planning Authority Reports

3.2.1. Planning Reports dated 18th June 2020 and 18th August 2020. The initial report outlined that there were no concerns in-principle with the development but, identified that additional information was required in relation to road safety and surface water drainage aspects of the development. As part of a request for additional information, the applicant was requested to provide:

- (1) a site layout plan demonstrating visibility splays of 49m in both directions, from a point 2.4m from the road edge, (2) where such visibility splays require third party lands, demonstration of consent from the relevant landowner(s) to carry out such maintenance works to provide and maintain same, (3) details of proposed changes to road markings and signage at the proposed access, (4) details of any proposed permeable paving, including a site plan which identifies any attenuation area, any flow restriction device and any petrol interceptor, (5) hydraulic analysis of the storm water collection and disposal system and details

of calculations for storm run-off attenuation and greenfield run-off calculation, including its application to a flow control device.

- A Road Safety Assessment that examined the relative safety of all road users, highlights potential safety issues and makes recommendations on how to improve same and outlines how the development will improve the user experience vis-à-vis the shop and the quality of life for people in the area.

3.2.2. Following receipt of additional information, the subsequent report recommended that permission be granted, subject to 3 No. recommended conditions. The recommended conditions are generally in accordance with the Planning Authority's decision to grant permission.

3.2.3. Other Technical Reports

Environment Section – Report dated 8th April 2020, outlining no objection to the development, subject to 12 No. recommended planning conditions.

Municipal District Engineer – Reports dated 17th April 2020 and 10th August 2020. The first report requested additional information on the following aspects of the development: (1) a site layout plan demonstrating visibility splays of 49m in both directions, from a point 2.4m from the road edge, (2) where such visibility splays require third party lands, demonstration of consent from the relevant landowner(s) to carry out such maintenance works to provide and maintain same, (3) details of proposed changes to road markings and signage at the proposed access, (4) details of any proposed permeable paving, including a site plan which identifies any attenuation area, flow restriction device and petrol interceptor, (5) hydraulic analysis of the storm water collection and disposal system and details of calculations for storm run-off attenuation and greenfield run-off calculation, including its application to a flow control device. The subsequent report followed receipt of additional information and outlined no objection, subject to 20 No. planning conditions.

3.3. **Prescribed Bodies**

3.3.1. Transport Infrastructure Ireland submission dated 18th May 2020, outlining that in the case of the proposed development, TII would rely on the Planning Authority to abide by official policy in relation to development on/affecting national roads, as outlined in *Spatial Planning and National Roads Guidelines for Planning Authorities* (DECLG,

2012), subject to: (a) the development should be undertaken in accordance with the recommendations of the transport assessment and road safety audit submitted and any recommendations arising should be incorporated as conditions on the permission, (b) TII will not entertain future claims in respect of impacts (e.g. noise and visual) on the proposed development, due to the presence of the existing road or any new road scheme which is currently in planning.

3.4. **Third Party Observations**

3.4.1. 1 letter of observation was received, the issues raised within which can be summarised as follows:

- The observer's house would be negatively impacted by the opening of the rear of the proposed carpark onto Glaslough Road by reason of loss of privacy, lightspill from cars causing visual disturbance and traffic noise as a result of higher vehicle speeds.
- It was noted that Transport Infrastructure Ireland's submission stated the existing entrance/exit arrangement to the site is adequate.

4.0 **Planning History**

4.1.1. Relevant planning history records for the site include:

20/244 - (ABP Ref. ABP-308180-20) Current application seeking permission to extend the height of a wall along the northern boundary of the carpark approved under Reg. Ref. 19/250, together with associated site works.

19/250 - Permission granted on 28th January 2020 for the construction of a customer/staff carpark facility, using the forecourt access adjacent to the Centra store, together with demolition of existing store/shed-type structures, new perimeter boundary, landscaping and associated site works. Of relevance to the current appeal, condition No. 11 required that the area indicated as vehicle parking on the application drawings shall be reserved for the parking of vehicles and shall not be used for the storage of goods or materials.

17/161 - Permission granted on 28th July 2017 for an extension onto the side of the existing retail space and internal and external alterations, together with a new access to upper level accommodation, incorporating private open space at first floor level.

08/813 - Permission granted on 6th October 2008 for change of use from retail use to retail and off-licence use and provision of a second shop entrance.

01/961 - Permission granted on 22nd April 2002 for redevelopment of the existing petrol station, to include new underground fuel storage tanks, replacement canopy, building and pump island, new petrol interceptor and drainage works.

5.0 Policy Context

5.1. Development Plan

5.1.1. The site is located within the Emyvale village development limit, identified under the Monaghan County Development Plan 2019-2025. Emyvale is designated as a 'Tier 4' village under the development plan and, within the development limit, the development plan outlines that lands are not zoned for specific uses, in order to provide for a less restrictive approach to the suitable expansion and growth.

5.1.2. Development plan objective VPSP1 outlines that in village locations, the Planning Authority will seek '*to promote and facilitate development that is commensurate with the nature and extent of the existing settlement to support their role as local service centres.*'

5.2. Natural Heritage Designations

5.2.1. The subject site is not located within or adjacent to any designated European Site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development, which falls below the threshold for mandatory environmental impact assessment, and the nature and character of existing development in the vicinity of the site, it is considered 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 grounds of appeal can be summarised as follows:

- There will be more hazards for pedestrians because of the development, along Main Street, at the junction of Main Street and Glaslough Road and along Glaslough Road.
- A copy of the appellant's grounds of appeal of concurrent application Reg. Ref. 20/244 is also appended to the appeal and it is stated that the appellant wishes to make the same observations concerning this appeal, as are made in relation to concurrent appeal Ref. ABP-308180-20. The relevant additional issues within this concurrent appeal are:
 - Impact on privacy at the appellant's home.
 - Glare from vehicles entering the car park from the proposed access.
 - Increased traffic and noise.
 - The development is out of character.
 - Transport Infrastructure Ireland had no concerns with limiting access to the car park from Main Street only.
 - The current entry/exit from Main Street is the safest and most respectful plan for the village.
 - The boundary wall should be made substantially higher, to protect privacy and to reduce noise and light pollution and should include a trellis or other similar installation. Mature trees of 4-5m height are also requested along the length of the car park wall.

6.2. Applicant Response

6.2.1. Submission received dated 12th October 2020, the contents of which can be summarised as follows:

- Privacy and Amenity
 - The proposed site layout does not encroach closer towards the appellant's property than the development approved under Reg. Ref. 19/250.
 - The proposed site layout also incorporates 30 car parking spaces and does not result in any potential for increased traffic or parking.
 - The north and east boundary treatments remain as per Reg. Ref. 19/250. There will be no direct views of the appellants' garden, due to the presence of this wall.
 - The development will not result in increased noise levels from what was deemed acceptable under Reg. Ref. 19/250.
 - The applicant's home is located between the subject site and the appellants' property.
 - The Planning Authority's assessment concluded that there were no undue residential amenity concerns.
 - It is good planning to bring vacant backlands into a sustainable land use, to achieve urban consolidation. Development plan Objective SS011 promotes sustainable compact urban forms, including backland development where appropriate.
- Traffic and Entrance
 - The existing parking and access arrangement can become congested, during peak periods. Given the N2 passes through Emyvale, this is not ideal, in terms of traffic management and overall parking provision.
 - The proposal represents an opportunity for improved traffic management, with a separate entry/exit onto Glaslough Road.
 - There is no increase in floor area of the retail premises proposed and traffic volumes will remain as existing.

- A Road Safety Audit of the existing access was carried out as part of Reg. Ref. 19/250 and it was deemed to be acceptable.
- There is direct surveillance of the carpark, provided from the retail unit, the applicant's home and from neighbouring lands. At night, the carpark will be controlled by a security barrier. Hours of operation of the carpark can be controlled by condition, to between 7am-10pm.
- No demolition works are required to any of the built fabric of the village.
- The proposed access meets Design Manual for Urbans Roads and Streets requirements.
- A traffic survey, prepared by McMahon Associates, accompanies the application. The proposed visibility splays are justified in the context of the survey results.
- The Planning Authority's Roads Engineer was satisfied with the proposal.
- Character and Design Matters
 - The proposal is in a village setting and is appropriate, in terms of location.
 - Proposed street lighting is acceptable and will not cause glare to the appellants' property.
 - The subject site is zoned and there is no requirement for a buffer to be provided. The use of the lands for parking is acceptable.
 - Increased separation distances are not good planning or a means to achieve urban consolidation and is contrary to National Planning Framework Objectives 11 and 13.
 - Regarding the appellants' request that the wall should be made higher and that trees of 4-5m in height should be planted, the application does not seek to amend the wall design on the north boundary. The applicant is amenable to a condition requiring landscaping works, should this be deemed necessary by the Board.
 - The appellants are taking a contradictory approach, in seeking under this appeal to have the north boundary wall increased in height, but at the same time objecting, under concurrent appeal ABP-308180-20, to proposed

increase in the height of this wall. The applicant approached the appellants, in order to address their concerns, and offered to provide an increase in the height of the wall. Application Reg. Ref. 20/244 was submitted on the basis that it would be acceptable to the appellants, but a submission was made of that application and it is now the subject of appeal Ref. ABP-308180-20.

- The Board is requested to dismiss the ground of appeal relating to the wall, given the proposal is in accordance with details under Reg. Ref. 19/250.
- The development is consistent with national, regional and local planning policies.
- Regarding appropriate assessment, the development does not engage the tests under Article 6(3) of the Habitats Directive.

6.3. Planning Authority Response

6.3.1. None received.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the appeal are as follows:

- Principle of development;
- Proposed layout
- Impact on neighbouring properties;
- Impact on the character of the area;
- Impact on pedestrian and road safety;
- Other issues;
- Appropriate assessment.

7.2. Principle of Development

- 7.2.1. The subject site is located within the development limit for Emyvale village and I note the development plan's stated approach to zoning in this location, that lands are not zoned for specific uses in order to provide for a less restrictive approach to the suitable expansion and growth.
- 7.2.2. The principal of a commercial use of the site and of a car park of 30 No. spaces have been established and I consider the proposed development, which would redirect some traffic from Main Street, would allow for the village's continued suitable expansion, in accordance with the provisions of the development plan.

7.3. **Proposed Layout**

- 7.3.1. Whilst an additional access is acceptable in principle, I consider the proposal is more akin to a road junction than a crossover onto private lands. The Design Manual for Urban Roads and Streets outlines that the design of vehicle crossovers from streets should '*clearly indicate that pedestrians and cyclists have priority over vehicles. There should be no change in level to the pedestrian footway and no use of asphalt (which would incorrectly indicate vehicular priority across a footpath).*'¹ With an internal carriageway width of 6m and turning radii of 6m, the proposed layout is excessive in its scale and serves to prioritise vehicles over pedestrians.
- 7.3.2. I consider that a revised layout, with a carriageway width of 5m and turning radii of 3m, together with retention of a raised footpath across the width of the access, would be appropriate to serve the site, would allow for 2-way traffic and would accord with DMURS advice. Should the Board decide to grant permission, I recommend that a condition is attached, requiring an access of reduced scale and width to be provided.

7.4. **Impact on Neighbouring Properties**

- 7.4.1. The detached property to the east of the proposed access would be directly impacted by the development, arising from the loss of part of the west side garden, however; I note that the owners of the adjoining property have provided written consent to the making of the application. I am satisfied that an adequately sized garden would be retained for this property.
- 7.4.2. The proposed 1.8m wall along the shared boundary with this property would provide adequate protective screening, in terms of overlooking and also in terms of

¹ Design Manual for Urban Roads and Streets, Section 4.3.1, Page 87.

protection from light glare. The application drawings identify that this wall would be graded down to match the existing dwarf wall which runs along the front boundary of the neighbouring property; should permission be granted; I consider it appropriate to attach a condition requiring that the layout and finish of the proposed wall shall be agreed with the Planning Authority.

- 7.4.3. A primary concern of the appellants is the impact of the development on their privacy, however; I do not share these concerns. The appellants' property is more than 20m away from the north boundary of the subject site and whilst upper floor windows can be seen from the carpark, there is no impact on privacy. There is no visibility of the appellants' garden from the car park and there would no visibility from the proposed access.
- 7.4.4. Regarding glare, I am satisfied that the existing boundary wall, at 2.4m high, provides an adequate screening barrier. In relation to the appellants' request that the height of the boundary wall should be raised and that an additional trellis and tree planting should be incorporated, I consider this is unnecessary.
- 7.4.5. Regarding noise concerns, the level of parking provided within the carpark remains at 30 spaces, as per Reg. Ref. 19/250 and there will be no material increase in the level of activity on the site.

7.5. Impact on the Character of the Area

- 7.5.1. A proposed new access onto Glaslough Road may have a limited visual impact, but I do not agree with the appellant, that it would be out of character. There are a number of vehicular accesses in the immediate vicinity of the site and there are a variety of boundary treatments in evidence. Indeed, the existing buildings within the subject site abut the footpath along Glaslough Road and present an effectively blank façade of c.3m in height. Subject to agreement over the layout and finish of the proposed wall, I consider the development would have no impact on the character or visual amenities of the area.

7.6. Impact on Pedestrian and Road Safety

- 7.6.1. There are a number of aspects to the appellants' concerns regarding pedestrian and road safety.

- 7.6.2. Regarding the concerns for a hazard for pedestrians along Main Street, in the area of the forecourt, this is the approved access to car park and it is not proposed to be amended as part of the proposed development. In any case, I noted in my review of site planning records that, as part of application Reg. Ref. 19/250, the applicant proposed to amend the layout and treatment of this access, proposing to remove on-street parking spaces adjacent to the forecourt, reduce the width of the two-way access/exit to 6m, define the one-way access and two-way access/exit with road markings and to remove/relocate a number of items from the forecourt area. These amendments arose from recommendations within a Road Safety Audit of the existing access. These layout amendments, a number of which had yet to be implemented at the time of my visit to the site, make adequate provision for pedestrian safety.
- 7.6.3. I would also note that the proposed access will further reduce the potential for conflict between cars and pedestrians, by removing at least some vehicle movements from this existing Main Street access.
- 7.6.4. Regarding the concerns for a pedestrian hazard along Glaslough Road and at the junction of the N2 and Glaslough Road, the road is served by public footpaths on both sides of the road, up to the junction with the N2 and further eastward, and I am satisfied that, subject to a revised layout which prioritises pedestrians, no pedestrian hazard would arise.
- 7.6.5. Regarding the concerns for hazards elsewhere in the village, I do not consider that the proposed access will cause or contribute to road safety hazards.

7.7. Other Issues

- 7.7.1. In relation to land ownership, there is some confusion within the application documents, where the applicant has stated on the application form that they are the owner of the site, but the site layout refers to a letter of agreement with the neighbouring property owner and a letter signed by Bo Xiao and Shaoguang Teng has been provided, which states that they own the land in question. I am satisfied that in the event the applicant does not currently own the land, the written consent of the owner has been provided and the application can be determined.
- 7.7.2. Regarding public lighting within the car park, a number of 6m high 'forward throw' streetlights are proposed, along the east and south boundaries of the carpark and west boundary of the access. I am satisfied that adequate lighting can be provided,

without undue impacts on neighbouring properties and that the detailed design and layout can be agreed with the Planning Authority.

7.8. **Appropriate Assessment**

- 7.8.1. The subject site is not within or adjacent to of any Natura 2000 site, the nearest designated site being Slieve Beagh Special Protection Area (Site Code 004167), which is approximately 6.5km west. There are no other Natura 2000 sites within a 15km search zone.
- 7.8.2. Having regard to the nature and scale of the proposed development, a proposed new access to an existing commercial property within a village location, 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**

- 8.1.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

9.0 **Reasons and Considerations**

- 9.1.1. Having regard to the Tier 4 village location of the site under the Monaghan County Development Plan 2019-2025, in which suitable expansion and growth are promoted, together with the nature and scale of both the wider commercial use of the site and of the proposed development, the accessible location of the site and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would not be prejudicial to pedestrian and traffic safety and would 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, as amended by additional
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	<p>information submitted on 27th July 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The development shall be completed prior to the date of expiry of extant permission Reg. Ref. 19/250.</p> <p>Reason: In the interest of clarity</p>
3.	<p>The proposed access shall incorporate turning radii of 3m and a maximum internal carriageway width of 5m and shall maintain a raised footpath across its full width or incorporate other <i>Design Manual for Urban Roads and Streets</i> principles which ensure that priority is given to pedestrians walking along Glaslough Road. Prior to the commencement of development details of the revised layout shall be submitted and agreed with the Planning Authority.</p> <p>Reason: In the interests of proper planning and sustainable development and to ensure pedestrian safety.</p>
4.	<p>The development shall be carried out in accordance with all planning conditions attached to permission Reg. Ref. 19/250 unless otherwise authorised as part of this permission.</p> <p>Reason: In the interests of proper planning and sustainable development.</p>
5.	<p>Lighting within the carpark shall be provided in accordance with a scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available by the developer for occupation of any house / unit within the relevant phase of the development.</p> <p>Reason: In the interests of amenity and public safety.</p>

6.	<p>Prior to the commencement of development, the developer shall submit, for the written agreement of the Planning Authority, details of the layout and finish of the proposed 1.8m wall along the east boundary of the access.</p> <p>Reason: In order to protect the residential amenity of the adjoining residential occupier</p>
7.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>

Barry O'Donnell
Planning Inspector

15th December 2020.