



An
Bord
Pleanála

Inspector's Report

ABP-308213-20

Development	Alterations to Blocks B & C previously permitted under Pl. Ref. No's 06/3886, 12/1428 & 17/1699.
Location	Treanrevagh, Co Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	20384
Applicant(s)	Cahermorris Developments Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	(1) John Cunningham (2) Peter Kitt (3) Deidre Noughton & Sean Farrell
Observer(s)	
Date of Site Inspection	09 th December 2020
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1 The appeal site, which has a stated area of 1.079 hectares, is located within the town of Mountbellew Bridge in east Co Galway. The site is part of a larger landholding that is subject to an existing permission for a mixed use development. The site is located within the 50km/h speed limit on College Road R358 which runs east from the centre of Mounbellew. The site lies circa 300m east of the central town square formed by the intersection of the N63 Roscommon Road and R358. The site extends northwards and also includes a right of way linking west to the N64. The appeal site relates to a portion on the southern fringe of the overall site adjacent to the R358. There is a single storey dwelling on the site adjacent to the road front with an area of hardstanding and footpath and grass verge along the road frontage. Adjoining to the south east side is a two-storey residential property and Mountbellew Agricultural College is located to the east of this. Bellew Grove House, a substantial detached two storey over basement 19th century house and The Holy Rosary College secondary school are located to the west of the site. On the opposite side of the R358 to the south west are individual detached properties predominantly residential also with some commercial / service uses.
- 1.2 The extant permission on the site relates to a large scale, mixed use scheme which was granted permission on appeal under PL 07.221318 and 06/3886. The commercial element of the scheme focused on the southern end of the site fronting college road while the residential element was towards the northern part of the site. The lifetime of the initial permission was subsequently extended in 2012 (12/428) and 2017 (17/1699) and is due to expire on 31 December 2021.

2.0 Proposed Development

- 2.1. Permission is sought for alterations to Block B and C previously permitted under PI. Ref No's 06/3886, 12/1428 & 17/1699. The development will consist of 1) the relocation Block B further north west, 2) change of plans of Block B, (3) relocation of Block C further to the north, (4) reconfiguration of associated car parking layout,

internal access and landscaping layout, (5) connection to previously permitted services, together with all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 16 conditions. Of note are the following conditions...

Condition 1: To be carried out in accordance with the conditions set down under Ref No's 06/3886, 12/1428 & 17/1699.

Condition no. 2: Permission shall expire on the 31st December 2021 as per Ref No's 06/3886, 12/1428 & 17/1699.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (14/07/20): Further information required including clarification of the configuration of retail floor space proposed, submission of a Retail Impact Assessment for all retail floor space in excess of the permitted under ref no. 06/3886, 12/1428 & 17/1699 and details of car parking proposals in the context of Development Plan requirements.

Planning report (18/08/20): The proposal was considered to be acceptable in the context of the proper planning and sustainable development of the area. A grant of permission was recommended based on the conditions outlined above.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

3.4.1 Four submissions were received. The issues raised can be summarised as follows...

- Issues raised include procedural matters, impact on vitality of the existing village, traffic impact, adjoining amenity and ecological impact.

4.0 Planning History

4.1 ABP-306850-20 (191699): Permission granted for partial change of plans from retail units and apartment units to a fuel filling station.

4.2 ABP-304043-20 (181210): Permission refused for a change of plans from retail units and apartment units, to a fuel filling station with underground fuel storage tanks. Refused for one reason...

1. The Board considered that the change of use from retail units and apartments to a fuel filling station would generate additional traffic over and above the permitted use. The Board noted that the site was restricted in nature in terms of turning movements and was proximal to the junction of the access road for the overall permitted development and the regional road. It is considered that the proposed development would lead to a pattern of conflicting traffic movements at the junction that would be prejudicial to public safety, particularly to vulnerable road users in the area. The Board considered that the proposed development would, therefore, endanger public safety by reason of pedestrian and traffic hazard and would be contrary to the proper planning and sustainable development of the area.

4.3 17/699: Extension of duration of permission ref no. PL07.221318 (06/3886) granted.

4.4 12/1428: Extension of duration of permission ref no. PL07.221318 (06/3886) granted.

- 4.5 PL07.221318 (06/3886): permission granted mixed development to include 37 houses, 9 no. apartments, 15 no. retail units, 8 no. office medical, creche, cafe and all associated services and site works.
- 4.6 04/3713: Outline permission granted for a development 46 no. semi-detached dwellings.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant development Plan is the Galway County development Plan 2015-2022. The appeal site is located within Mountbellew which is classified as Other Villages (population <1500) in the settlement hierarchy. Section 2.6.6 of the development plan states that these villages have strong settlement structures and have the potential to support additional growth, offering an alternative living option for those people who do not wish to reside in the larger key towns and do not meet the housing need requirements for the rural area. The wastewater treatment facilities in some of these towns/villages require investment and therefore it is considered that their inclusion at this level in the hierarchy will provide a plan-led approach to securing this investment in the future.

5.1.2 Objective SS 6, Development of Other Villages seeks to protect and strengthen the economic diversity of the smaller towns, villages and small settlements throughout the County, enabling them to perform important retail, service, amenity, residential and community functions for the local population and rural hinterlands.

5.2. Natural Heritage Designations

5.2.1 The site is located 2km south of the Carrownagappul Bog SAC (001242) and 11.6km from the River Callows Suck SPA (004097).

5.3. EIA Screening

5.3.1 Having regard to nature and scale of the development, which is amendments to a permitted development and the built-up location of the site 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 A third party appeal has been lodged by John Cunningham, Longford Hill, Mountbellew, Ballinasloe, Co. Galway. The grounds of appeal are as follows...

- The site notice was not in place from the required period and was up on site at a later date and is an infringement of the Planning and Development Regulations.
- Unsolicited further information was submitted and accepted with concerns regarding such that it was of material significance and a deliberate attempt to avoid public scrutiny.
- A further information request was made for a Retail Impact Assessment. The response to such was inadequate and there should be requirement for a new retail impact assessment.

6.1.2 A third party appeal has been lodged by Deidre Naughton & Sean Farrell, Seven Oaks, College Road, Mountbellew, Co. Galway. The grounds of appeal are as follows...

- The site notice was not erected on the dates required.
- The changes proposed in this application include plant equipment on the roof and a delivery bay with the block closer in proximity to the appellants' dwelling. Concern expressed regarding noise and disturbance relative to the appellants' dwelling.

- The appellants refer to an ongoing live appeal and changes to the façade with concerns regarding the incremental nature of proposals on site and such is prevent an overall assessment of development on the site.
- It is considered that the proposed development would have an adverse impact on the existing village and retail outlets. The applicant failed to provide a retail impact assessment despite being requested to do so and providing an inadequate response.
- The appellants question the need for the changes proposed and note they are a prelude to further change to the layout to facilitate a petrol filling station with the planning history of the site noted.
- The changes proposed would result in light spillage into the appellants' dwelling which is in close proximity to the site and the proposed development.
- It is noted that none of development permitted on site have been started and that the proposal is to prolong the life of an existing permission. The proposal should be refused and a fresh assessment undertaken regarding development of the entire site.

6.1.3 A third party appeal has been lodged by Peter Kitt, College Road, Mountbellew, Co. Galway. The grounds of appeal are as follows...

- Procedural issue have been raised in including the fact that the site notice was not erected for the required period and dates.
- The response to further information was inadequate in particular the lack of provision of a Retail Impact Assessment. Given current circumstances there is requirement for a new retail impact assessment in the context of impact on existing retail core of Mountbellew.
- Unsolicited further information was submitted that entailed significant changes. This information should not have been accepted and as such disenfranchised public participation and scrutiny of the proposal.
- The extensive planning history of the site is noted and the fact that no construction work has taken place over a long period of time despite

permissions granted. The appellant questions the level of assessment of the four submissions received raising substantive issues noting that the planning reports associated with this application do not address such sufficiently.

6.2. Applicant Response

6.2.1 Response by Kieran O'Malley & Co Ltd on behalf of the applicants, Cahermorris Developments Limited.

- The applicant stated that the proposal including erection of the site notice complied with the Planning and Development Regulations and the Planning Authority are satisfied that this is the case.
- In relation to retail impact assessment the applicant points out that the gross floor area of the retail unit in Block B is 1,756sqm, which is less than the 1,860.8sqm approved under ref no. 06/3886 (extended expiry date is 31st of December 2021). As the level of retail floor space is less than that approved there is no requirement to carry out a retail impact assessment. The applicant replied to the further information request and the response was accepted as adequate.
- The applicant notes that under ref no. ABP306850-20 (19/1699) permission has been granted for filling station that replaces approved Block A.
- In relation to unsolicited further information (revised floor plan) the applicant states it should be disregarded. The applicant clarifies that the proposed floor plans for Block B is DRWG no. 4 and 5.
- The design and scale of the proposal would be acceptable in the context the residential amenity of the adjoining property.
- It is noted permission was granted for development under ref no. ABP-306850-20 (191699) for partial change of plans from retail units and apartment units to a fuel filling station and the issues raised by the appellants' regarding the nature of proposals are not a substantive reason to preclude the proposed development.
- There is an existing permission for a retail development with the modification proposed to facilitate a prospective tenant and such being a reduction in the

level of retail space. There is no reason justifying refusal. The proposal is modifications to an approved development.

6.3. Planning Authority Response

6.3.1 No response.

7.0 Assessment

7.1 Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development

Physical impact/adjoining amenity

Retail Impact

Other issues

7.1. Principle of the proposed development:

7.1.1 The development description is amendments to a permitted development under ref no.s PL06/3886, 12/1428 and 17/1699. Under permission ref no. 06/3886 (appeal ref no. PL07.221318 (06/3886) permission was granted for a mixed use development to include 37 houses, 9 no. apartments, 15 no. retail units, 8 no. office medical, crèche, cafe and all associated services and site works. This permission was subsequently given an extension of duration on two separate occasions under ref no.s 12/1428 and 17/1699 with the current expiry date being the 31st of December 2021. The permitted development includes a number of blocks including Block B, which is a two-storey structure with a retail unit permitted at ground floor level and office space at first floor level. Block C is also a two-storey block with 2 no. retail units at ground floor level and 2 no. office units at first floor level. The current proposal entails amendments to Blocks B and C with a revised design for Block B which is relocated further north west and relocation of Block C further north.

7.1.2 Permission has been granted recently under appeal ref no. ABP-306850-20 for alterations to Block A with a change of plans from retail units and apartment to a petrol filling station. This application also include revisions to the façade of Block B. The proposal is for amendments to an extant permission so the principle of the proposed development is established on site.

7.2 Physical impact/adjoining amenity:

7.2.1 One of the main issue raised in the appeal relates to the physical impact of the proposed development due to its proximity to an existing dwelling to adjoining the site. The existing dwelling is a two-storey dwelling and is located to the south of the site. The issues raised include the proximity of the development in terms of the provision of external plant equipment on the roof, the proposed loading bay and potential noise/disturbance and the potential for light overspill.

7.2.2 The first point I would note is that there is an extent permission on site for a two-storey retail/office development at this location. The current proposal seeks amendments to such with the change including relocating the block further to the north west, which is actually further away from the appellants' dwelling than the current permitted development. The alterations in design have decreased the scale of permitted Block B and the amended design is mainly single-storey with a small footprint of development at first floor level. In relation to the plant equipment such is located to the rear of the first floor portion of the building and sufficient distant from the appellants' property with such is screened both visually and acoustically by the first floor portion of the structure. In relation to the loading bay the amended design is a better design in terms of its relationship with the existing dwelling. The permitted Block B, which was closer to the appellants' dwelling had 2 no. roller shutter doors on its western elevation whereas the amended design moves the loading bay to rear of the building and further away from the appellants' dwelling. On the issue of light overspill I would consider that the amendments proposed are not significantly different in nature and scale to development permitted on site and with the proposal being amendments to an extent permission. I do not consider the proposal would

have a significant impact over and above that of the permitted development and the amended design for Block B would have a lesser impact due to its reduced scale, relocation further from the appellants' dwelling and its reconfiguration in layout. I would recommend a condition requiring appropriate cowling of any lighting proposed on site to minimise light overspill.

7.3 Retail Impact:

7.3.1 The appeal submissions raise concerns regarding the lack of the provision of Retail Impact Assessment (RIA) and refer to the fact that the applicant was requested to submit one by way of further information. The further information requested that the applicant submitted an RIA for all retail floor space in excess of that permitted under ref no.s PL07.221318 (06/3886) , 12/1428 and 17/1699. The applicant response indicated that the proposal did not entail the provision of any retail floor space in excess of that permitted and stated that the retail floor space in Block B was being reduced in area and there was no requirement for an RIA. As noted above the proposal is for amendments to a permitted development with an extant permission on site. There is no change to the design Block C, which is being relocated a short distance further north on site. In the case of Block B an amended design has been submitted. Block B provides for a single retail unit at ground floor level with a permitted gross floor area of 1880.8sqm and a net retail floor area of 1096sqm. The amended design of Block B provides for a retail unit at ground floor level with a gross floor area of 1764sqm and a net retail floor area of 1096sqm. The gross floor area of the retail unit in Block B is less than that approved while the net retail floor space is to remain the same. I would note that despite the views of the appellants' the applicants response to the further information request was legitimate as no retail floor space in excess of that permitted is being provided. Given the proposal is for amendments to an extant permission and the amendments does not entail an increase in retail floor space, I do not consider that Retail Impact Assessment is required.

7.4 Other Issues:

7.4.1 Given the proposal is an amendment to an extant permission I would recommend a condition be attached restricting the duration of the permission to the expiry date of

the parent permission on site under PL07.221318 (06/3886) and as subsequently extended in duration under ref no.s 12/1428 and 17/1699 until the 31st of December 2021.

7.4.2 On the issue of procedural matters, I note that the appellants state that the site notice was not in place for the required period. The planning report state that a site notice was in place at time of site inspection. Having considered the matter I note based on the quantity of third-party submissions it is evident that the local public were well informed of the application on the site and as evidenced by the submissions received and the subsequent appeal have not been disenfranchised from taking a full part in the planning process. In relation to the issue of unsolicited further information, such were not the plans approved and the applicant has noted that such plans should be disregarded. One of the appeal submission referred to a live appeal. This live appeal refers to ABP-306850-20, which at the time of writing has been decided with a grant of permission issued (confined to expiry date of parent permission).

7.4.3 The proposal was revised to provide for 220 car parking spaces as a result of a further information request. This is similar to the level approved under the existing permission on site (221) with a similar layout and location relative to adjoining properties.

8.0 Appropriate Assessment

8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest 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.

9.0 Recommendation

9.1. I recommend a grant of permission subject to the following conditions...

10.0 Reasons and Considerations

Having regard to the planning history of the site, the pattern of existing and permitted development in the area, and the nature and extent of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not adversely impact on the visual amenity or character of the area, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 24th day of 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.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permissions granted on the 10th day of December 2009 under appeal reference number PL 07.221318 (planning register reference number 06/3886), as extended under planning register reference numbers 12/1428 and 17/1699, and any agreements entered thereunder. This permission shall expire on the 31st day of December 2021.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. All lighting within the site shall be directed and cowled so as not to interfere with passing traffic or the adjoining residential properties.

Reason: In the interest of residential amenity and traffic safety.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall monitor all site excavations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of any of these requirements the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

5. No advertisement or advertisement structure, other than those shown on the drawings submitted with the application, shall be erected or displayed on the canopy on the forecourt building or anywhere within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. Details of the materials, colours and textures of all external finishes shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

8. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of public health and to ensure a proper standard of development.

9. All service cables associated with the proposed development (such as electrical, television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of the visual amenities of the area.

10. A waste management plan, including provision for the storage, separation and collection of all waste, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and the amenities of the area.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such

phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Colin McBride
Planning Inspector

30th December 2020