



An  
Bord  
Pleanála

## Inspector's Report ABP 308438 -20.

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<b>Development</b>	Relocation of vents and fuel storage to rear of development permitted under P. A. Reg. Ref. 09/1404 and 15/1069) and associated site works.
<b>Location</b>	Townparks, Eyrecourt. Co. Galway.
<b>Planning Authority</b>	Galway County Council
<b>P. A. Reg. Ref.</b>	20/1070
<b>Applicant</b>	Ted Larkin
<b>Type of Application</b>	Permission
<b>Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party X Grant
<b>Appellant</b>	John Kenny
<b>Date of Site Inspection</b>	30 <sup>th</sup> November, 2020
<b>Inspector</b>	Jane Dennehy

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## **1.0 Site Location and Description**

- 1.1. The application site is located on the south side of River Street which is at the south western edge of Eyrecourt and is that of a filling station not in use at the time of inspection, comprising a commercial/light industrial building with a forecourt with a large canopy overhead. The structure is subdivided with a small unit at the western end converted for use as a fast-food outlet. The forecourt was in use for storage of vehicles, and as a recycling drop off and collection centre at the time of inspection.
- 1.2. An air handling unit is mounted on the west elevation wall and a flue pipe for the takeaway unit, is fitted through from interior to the external west facing elevation. A container was located at the rear west side of the site and other items were located at the side and adjacent to the wall of the building and the party boundary.
- 1.3. To the west side of the site is a bungalow which is the property of the appellant party. It is deeply setback from the road frontage behind front gardens and there are gardens to the side between the dwelling and boundary with the application site along which there is a dense hedge. There is further road frontage residential development on single plots in the immediate vicinity on both sides of the road at the edge of the village.

## **2.0 The Planning Application.**

- 2.1. The application lodged with the planning authority arises further to the prior refusal of permission details of which are in section 4 below. It indicates proposals for relocation of vents, (permitted under P. A. Reg. Ref. 09/1404 and 15/1069) from the west gable end of the structure to the rear facade and for fuel storage from the side to the rear along with associated site works.
- 2.2. The planning authority issued a decision to grant permission by order dated, 24<sup>th</sup> September, 2020 subject to three conditions which include a requirement for details of a scheme for effective control of fumes and odours to be submitted for agreement with the planning authority.
- 2.3. An observation was lodged by the Appellant Party, John Kenny who resides at the adjoining residential property in which he states that has reviewed several planning

applications for ventilation and extraction systems and the planning history for the application site. It is submitted that a noise and odour assessment should have been included with the application, that the ventilation system could be housed internally, in the attic and diverted to the rear of the building. Mr Kenny states the constant operation the vent, which is seventeen metres from his dwelling is totally unacceptable due to noise, and odours.

### 3.0 Planning History

**P. A. Reg.Ref.19/1550 (PL 306244)** By order dated, 28<sup>th</sup> August, 2020, the planning authority decision to grant permission was overturned following third party appeal to the Board based on the following reason.

*“The Board could not be satisfied that the development for which retention and completion is sought would not seriously injure the residential and visual impact of property in the vicinity. The proposed development would, therefore, not be in accordance with the proper planning and sustainable development of the area.”*

**P. A. Reg. Ref. 09/1404** – Permission was granted for the retention of a change to a fast-food outlet for space with a total stated floor area of 41.48 square metres from retail use along with associated site works.

**P. A. Reg. Ref. 15/1069** – Permission was granted for an extension to the garage and for provision of three commercial units (one to be occupied by the previously permitted relocated takeaway) within existing commercial building, and associated works (gross floor space garage 43.8sqm; unit 1 - 31.85sqm; unit 2 - 77.3sqm; unit 3 - 39.14sqm).

**P. A. Reg. Ref. 98/528:** Permission was originally granted for the original filling station, shop, carwash and garage with further development and additional development permitted subsequently under P. A. Reg. Ref. 03/1261.

## 4.0 Policy Context

### 4.1. Development Plan

The operative development plan is the Galway County Development Plan 2015-2021 according to which the site location is within the settlement boundary of Eyrecourt but is not subject to any specific zoning objective.

According to the settlement hierarchy, Eyrecourt is within “*Other Settlements & the Countryside*” with smaller settlements providing basic convenience retail and community/social services facilities serving the local community catchment.

## 5.0 The Appeal

### 5.1. Grounds of Appeal

5.1.1. An appeal was lodged by the Appellant Party, John Kenny who resides at the adjoining residential property on 16<sup>th</sup> October, 2020 in which he provides an account and commentary on the development, the relevant planning history and the correspondence between himself and the planning authority leading to the enforcement notices which have been served on the applicant.

5.1.2. According to the appeal:

- The external ventilation and extraction system should be moved to the rear of the building.
- The external ventilation and extraction system which is on the west elevation of the structure is a source of considerable distress due to odours, toxic fumes and, non-stop noises from the fan. It is a source of fire hazard because it is close to the gas connection for cylinders at the side of the building below the vent.
- If the vent is moved to the rear of the building, an existing problem of a wind tunnel effect and downdraft would be eliminated.

- A review has been undertaken on several planning applications in which the ventilation and extraction systems are or are required to be located at the rear of buildings as far as possible from dwellings.

## **5.2. Applicant Response**

5.2.1. A submission was received from Paul McLoughlin on behalf of the applicant on 6<sup>th</sup> November, 2020 which includes a set of drawings. According to the submission:

- The ventilation system is a requirement for operation of the takeaway at the premises under the Building Regulations.
- It is intended that the current proposal fully addresses the reason for the prior refusal of permission. (P. A. Reg.Ref.19/1550 /PL 306244 refers.)
- The relocation of the system to the rear of the premises reduces the potential for impact, (and perceived impacts) on the amenities of the adjoining property which have been addressed in the conditions attached to the planning authority decision to grant permission.
- The applicant is also willing to relocate the ventilation and extraction system to the eastern side of the building which, it is understood is acceptable to the appellant.
- The location of the fuel storage area is sufficiently far from the appellant's dwelling and has not been changed.

## **5.3. Planning Authority Response**

5.3.1. There is no submission from the planning authority on file.

## **5.4. Further Responses**

5.4.1. A further submission in response to the applicant's submission of 6<sup>th</sup> November, 2020 was received from the Appellant, on his own behalf, on 26<sup>th</sup> November, 2020 in which it is confirmed that the proposed arrangements as shown on the rear elevation and as dimensioned are acceptable to the appellant. It is also stated that the applicant should be required to provide a specification for the air vent system so that it can be ensured that it is appropriately sized and in accordance with HSA standards

for registered food businesses. These details would assure the appellant that issues regarding fumes and noise are addressed.

## 6.0 Assessment

- 6.1. Further to review of the submissions in connection with the appeal, it is understood that the dispute between the parties is substantively resolved by way of the proposed relocation to the rear of the building but the appellant seeks reassurances as to compliance with relative standards regarding odour and noise emissions. The requirements with regard to these standards which relate come under separate statutory codes to the planning code.
- 6.2. It is reasonable for such facilities which are necessary for the operation of the authorised use at the premises within a settlement boundary of a local centre such as Eyrecourt to be accepted. It is considered that subject to full details of the technical specifications for the equipment being submitted for agreement with the planning authority and, compliance with the required standards of the relevant statutory codes the amenities of adjoining and surrounding residential properties and the amenities of the area would not subject to undue adverse effect by operation of a system.
- 6.3. With the equipment on the rear elevation wall with the flue pipe extending up to roof level, residential amenities of the adjoining property would not be unduly affected with the system in operation and no planning concerns should arise. The proposed location of the fuel storage area at the rear is also considered acceptable.
- 6.4. On view of the application *de novo* and the planning history, it is also considered that the relocation of the ventilation and extraction equipment to the rear, from the west elevation wall would benefit the area by improving the presentation of the building in views from the public road thus enhancing the visual and residential amenities of the area.
- 6.5. The option included in the response to the appeal by the applicant for relocation to the eastern end of the rear elevation, stated to involve considerable expense for the applicant is implemented, to address the appellant's objections is unwarranted. The originally proposed location is at the back of the fast-food premises, towards the western end of the rear elevation.

## **6.6. Environmental Impact Assessment Screening.**

6.6.1. Having regard to the minor nature and scale of the development proposed and its inner urban location in an 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.

## **6.7. Appropriate Assessment Screening.**

6.8. Having regard to the nature and scale of the proposed development within a serviced area and separation distance 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 the conservation objectives of any European site.

## **7.0 Recommendation**

7.1. In view of the foregoing, it is recommended that planning authority decision to grant permission for the proposed development be upheld based on the reasons and considerations and conditions set out below.

## **8.0 Reasons and Considerations**

Having regard to the site location within the settlement boundary of the village of Eyrecourt and the established use of the premises served by the ventilation and extraction equipment as a fast food outlet, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity or the amenities of the area and, would be in accordance with the proper planning and development of the area.

## **9.0 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 lodged with An Bord Pleanála on 6<sup>th</sup> November, 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. Noise and odour emissions from the ventilation and extraction system shall be managed in accordance with measures full details of which, including a specification shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of the clarity and the protection of the amenities of the area.

**Jane Dennehy**

Senior Planning Inspector  
29<sup>th</sup> January, 2021