



An
Bord
Pleanála

Inspector's Report ABP-308505-20

Development	Change of use of former shop premises to fast food takeaway and all associated site works
Location	27 Main Street, Newport, Co Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	20/939
Applicant(s)	Nike Arra
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant of Permission
Appellant(s)	Teresa Martin
Observer(s)	None
Date of Site Inspection	03.02.2021
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is in the town of Newport in west Co. Tipperary.
- 1.2. The site is located on Main Street. There is a coffee shop/bakery adjacent to the east and houses to the west. There is a three-storey structure on site (two-storey addressing the street and three storeys to the rear). The site extends to the rear and there is a vehicular access to the rear. The ground floor of the unit is vacant. There is a substantial footpath area to the front of the properties in the vicinity on this side of the road, used as car parking.
- 1.3. The site has an area of 0.0607 hectares.

2.0 Proposed Development

- 2.1. Permission is sought for the change of use of a shop premises to fast-food takeaway, extract ducting to the rear and a ramp to the front in place of the existing steps.
- 2.2. The existing building has a floor area of 308.1sqm. 102.95sqm is subject of the proposed change of use. The front elevation is externally finished with plaster to the ground floor and dash to the first floor.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Tipperary County Council granted permission subject to six conditions including surface water disposal, lighting and signage to be agreed, installation of a grease removal system and opening hours restricted to 12.00 to 23.30 unless otherwise agreed.

3.2. Planning Authority Reports

The planning authority Planning Report forms the basis of the decision. The report concludes that permission should be granted subject to conditions.

3.2.1. **Other Technical Reports**

HSE – Comment made in relation to drinking water and the kitchen layout.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

Eight submissions were received from local business people and a commercial landlord, residents, homeowners and a county councillor. The issues raised are largely covered by the grounds of appeal with the exception of the following:

- There are already enough takeaways and eating establishments in the town and in the wider area.
- Damage to existing businesses.
- Everything on the applicant's menu in his existing takeaway in Cappawhite is covered by existing businesses.
- The Square seems to be forgotten about with all focus on Main Street.
- A butcher shop is needed more than another food outlet.
- Parking.
- Odour.
- Vermin.

4.0 **Planning History**

None.

5.0 Policy Context

5.1. North Tipperary County Development Plan 2010 (as varied and extended)

- 5.1.1. This Plan is in place until such time as a single County Development Plan is prepared for Tipperary subsequent to the preparation of the Regional Spatial and Economic Strategy.
- 5.1.2. Newport is contained within the Settlement Plans document of the County Development Plan 2010. The site is in an area zoned 'Town/Village Centre' on the Newport Settlement Plan map. It is also within an Architectural Conservation Area. The zoning objective for the town centre is 'To provide and enhance the service base of the town through the provision of mixed use development including retail, office service and community facilities'. A take-away is open for consideration in the Land Use Matrix table.
- 5.1.3. Section 6.4.4 (Diversity of Uses) of the Plan states that diversity of uses makes an important contribution to the function of town centres and a mix of uses will be accommodated. The section states that, 'Conversely, an overconcentration of uses, such as takeaways and bookmakers can detract from the vitality of a town centre'. Policy RTC8 states that it is policy 'to promote a diversity of use in town centres, and to seek to seek to limit development where an over-concentration of uses would detract from the function and visual quality of the town centre'.

5.2. Natural Heritage Designations

- 5.2.1. The closest heritage area is Lower River Shannon SAC approx. 100 metres to the east.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by Teresa Martin, The Corner House, The Square, Newport. The main points made can be summarised as follows:

- Newport has restricted capacity for eating establishments due to a limited customer base. There are nine premises operating as food outlets/takeaways/coffee houses. Existing businesses are under extreme financial pressure due to Covid 19 restrictions.
- Main Street is heavily trafficked, particularly during business hours. There is a traffic management plan in development. It would be premature to allow any further developments in this location prior to adoption of this plan.
- Main Street is primarily residential. A further increase in food outlets/takeaways would have a serious and negative effect on quality of life.

6.2. Applicant Response

The main points made can be summarised as follows:

- Existing food outlets in the town are of varying categories and types. The applicant is unsure how the appellant has established that there is a limited customer base. The customer base consists of town and hinterland residents and business and passing trade. There is a notable increase in visitors in summer. The applicant lives in Cappawhite and has visited the town on many occasions prior to purchasing the property to gauge the feasibility of the takeaway. He is convinced there is a good customer base. It would be inappropriate to refuse a planning application on the grounds of Covid restrictions.
- There was previously a butcher at this location which generated footfall. There would be no adverse planning restriction if the butcher's reopened. The proposal would not generate traffic to pose a 'threat to school children and the general public'. The street is notably wide and has a wide footpath. It is inappropriate to suggest that it would be premature to allow any further developments in this location prior to finalising the traffic management plan as it essentially employs that all planning applications in this part of town be refused until a plan is adopted.
- The applicant does not agree that there would be a negative effect on quality of life. There will be restricted opening times. The applicant has run a successful takeaway in Cappawhite and had no complaints from neighbours. The

site/building needs repair. The applicant and his family intend to live over the takeaway, contributing to the residential community.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None sought.

7.0 **Assessment**

The main issues are those raised in the grounds of appeal and the Planning Report and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Compliance with the County Development Plan 2010 / Impact on Existing Businesses
- Impact on Amenity of Adjoining Properties
- Traffic/Car Parking
- Appropriate Assessment

7.1. **Zoning**

- 7.1.1. The proposed development is located in an area zoned 'town centre'. The zoning objective for town centre is 'To provide and enhance the service base of the town through the provision of mixed use development including retail, office service and

community facilities'. A take-away is open for consideration in the Land Use Matrix table. Having regard to the town centre location, and matrix table, I consider the proposed use may be acceptable, subject to the detailed considerations below.

7.2. Compliance with the County Development Plan 2010 / Impact on Existing Businesses

- 7.2.1. The grounds of appeal and third party observations made on the planning application refer to the existing number of food outlets in Newport and to the impact an additional business would have on existing businesses.
- 7.2.2. Newport is designated as a 'Service Centre' in the County Development Plan 2010. Service centres are described as 'robust settlements that have a capacity to accommodate new residential growth, employment and enterprise and other appropriate uses'. They 'perform important roles as retail and service providers in their local economy and are targeted for continued growth'.
- 7.2.3. A takeaway use is open for consideration in the zoning matrix table. Policy RTC8 of the Plan states that a diversity of uses in town centres are promoted and an over-concentration of certain uses will be limited. Takeaways and bookmakers are specifically referenced in this regard. The Plan does not expand on what might constitute an over-concentration of uses apart from referring to the vitality and function of a town centre, stating diversity should be maintained and stating that Retail Health Checks will be carried out on an annual basis. The third parties consider that Newport is already well served by food outlets and a list of these were submitted with the third party observations to the County Council. There are a number of different types of food outlets cited i.e. coffee shops/cafés, a Chinese restaurant/takeaway, a takeaway, public houses and retail shops. Many of these cannot be considered as takeaways in the normal understanding of the word. I do not consider that the change of use of this unit to a takeaway would have a significant adverse impact on the vitality of the town centre and I do not consider it would result in an overconcentration of these specific types of food outlets. I also note that the unit is currently vacant which does not contribute to a vibrant town centre.
- 7.2.4. With regard to the impact of an additional food outlet on existing food-related businesses, the Retail Planning Guidelines for Planning Authorities (2012) state that

strong competition is essential to reduce retail costs and that the planning system should not be used to inhibit competition or to preserve existing commercial interests.

- 7.2.5. Having regard to the foregoing, I consider that the proposed development would be consistent with the designation of Newport as a service centre, would not contravene Policy RTC8 of the County Development Plan 2010 and would occupy a vacant commercial unit in the town centre. I consider the proposed development would be in accordance with the proper planning and sustainable development of the area.

7.3. Impact on Amenity of Adjoining Properties

- 7.3.1. The grounds of appeal and one of the third party observations to the planning authority refer to impact on residential amenity.
- 7.3.2. The unit is a commercial unit and fronts onto Main Street. There are houses adjacent to the west. Any activity that would occur related to the takeaway would be to the front/Main Street area. There is no private space associated with these houses to the front. The proposed use is a normal use in town centre areas. A condition relating to opening hours would be attached to a grant of permission. The Council restricted opening hours to 12.00 to 23.30 seven days a week. I consider this reasonable. Signage and lighting issues can also be addressed by way of compliance with the planning authority.
- 7.3.3. Mechanical extraction is proposed to the rear of the unit. The exhaust flue is in the centre of the structure, 4.5-5 metres from the adjoining properties, and above the eave levels of the adjacent structures. The elevation drawing notes that the extract fan system will comply with the 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. Though it appears this document has been withdrawn and is out of date, I do not consider the system would result in significant nuisance having regard to its location. Notwithstanding, odour control measures should be agreed with the planning authority.
- 7.3.4. In conclusion, I do not consider the proposed use would result in any undue impact on adjoining properties. This is the type of commercial activity that would normally be provided on the Main Street of a town and appropriate conditions can be attached.

7.4. Traffic/Car Parking

- 7.4.1. Traffic and car parking are referenced in the grounds of appeal and one of the third party observations to the planning authority.
- 7.4.2. Traffic generated by the unit would be minimal in the context of the normal volume of traffic through Main Street. The proposed development would have no noticeable impact in this regard. The granting of permission for this application would have no impact on the traffic management plan referred to in the grounds of appeal. Permitting the application would result in the occupation of an existing vacant commercial unit.
- 7.4.3. The previous use of the unit, a butcher's, would have required limited car parking. I consider both uses as retail uses as set out in Table 10.2 (Minimum Car Parking Standards) of the County Development Plan 2010. Therefore, the change of use does not attract additional car parking requirement.
- 7.4.4. I do not consider the development would have a significant adverse impact on traffic or car parking in the area.

7.5. Appropriate Assessment

- 7.5.1. 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

- 8.1. I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the North Tipperary County Development Plan 2010, as extended and varied, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Plan in terms of the use of the vacant commercial unit in this town centre area, would not result in an over concentration of takeaways, would be acceptable in terms of traffic safety and would not seriously injure the amenities of the area. The proposed development would, therefore, 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 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. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of the proposed shopfront and signage associated with the proposed take-away use. Details shall include the colour, textures and materials together with details of any proposed illumination of signage.

Reason: In the interest of visual amenity and the character of the Architectural Conservation Area.

3. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the shopfront. Such shutters shall be of the “open lattice” type and shall not be used for any form of advertising unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and the character of the Architectural Conservation Area.

4. A plan containing details for the management of waste (and in particular recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of waste and, in particular recyclable materials and for the ongoing operation of these facilities within the take-away shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the premises shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials in the interest of protecting the environment.

5. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

6. The developer shall control odour emissions from the premises in accordance with measures including extract duct details which 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 to protect the amenities of the area.

7. No goods, sandwich boards or similar structures shall be displayed outside of the premises.

Reason: In the interest of visual amenity.

8. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provisions amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags or other projecting elements shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

9. The hours of operation of the takeaway shall be restricted to between 12.00 hours and 23.30 hours, Monday to Sunday, unless otherwise authorised in a subsequent planning permission.

Reason: In the interest of orderly development and the amenity of adjoining properties.

Anthony Kelly

Planning Inspector

18.02.2021