



An
Bord
Pleanála

Inspector's Report ABP-310059-21

Development	Importation of material, use of land for car parking, and construction of wall
Location	Stonebridge Business Park, Ballysimon Road, County Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	21/120
Applicant(s)	Fabiolo Ltd.
Type of Application	Retention & Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Jim Hickey
Date of Site Inspection	13 th July, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The 0.1 hectare site is located at the south-eastern side of Limerick City with frontage onto the northern side of Ballysimon Road (R527). It comprises a surfaced area used for car parking. It is enclosed by a high wall along its road frontage, which forms a retaining wall, and is fenced on its western and northern boundaries. It is elevated over lands to the east. The site is linked by a ramp to development to the east comprising a mix of commercial uses, including businesses trading in electrical, car parts, pet food, etc. There is car parking within the forecourt of this adjoining development. The site is bounded by a lane on its west side leading to housing and there is residential development fronting onto Ballysimon Road west of the lane.

2.0 Proposed Development

- 2.1. The proposed development would comprise the retention of the importation of hardcore material, the use of the land for car parking linked to the adjoining business park, and the construction of a 1.8m high wall along the side boundary and all ancillary works.
- 2.2. Details submitted with the application included Land Registry information.

3.0 Planning Authority Decision

3.1. Decision

On 1st April, 2021, Limerick City & County Council decided to grant permission for the proposed development subject to 12 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted planning history of the site, development plan provisions, reports received, and third party objections. It was noted that the number of parking spaces provided had been reduced from that previously permitted on the site. The parking use was not seen to contravene the residential zoning objective for the site. It was acknowledged that the boundary wall adjoining Shanavaugha Avenue would be on

lands within the control of the applicant and it was submitted that it would provide sufficient screening. It was noted that floodlighting had been cowled to avoid light spill. It was considered that operating hours could be controlled by way of condition. A grant of permission subject to conditions was recommended.

3.2.2. Other Technical Reports

The Operations & Maintenance Services Engineer noted parking was previously granted on the site and the proposal is of a smaller scale. Three conditions were set out.

The Mid West National Road Design Office stated it had no observations to make.

3.3. Prescribed Bodies

Transport Infrastructure Ireland stated it had no observations to make.

3.4. Third Party Observations

Submissions were received by the planning authority from residents of Shanavaugha Avenue and James Hickey. The concerns raised related to the height of the proposed boundary wall, congregation in the car park, drainage, how the development has proceeded to date, and devaluation of residential properties.

4.0 Planning History

P.A. Ref. 11/770073

Permission was granted for the change of use from light industrial to shop for units 2, 6 and part of unit 3 and to retain change of use from light industrial to car repair workshop at unit 5 and for the extension of car parking from 17 to 48 spaces, demolition of front boundary walls and replacement with a realigned pygmy wall and railing, construction of new fence along the side boundary, and provision of new totem sign.

5.0 Policy Context

5.1. Limerick City Development Plan

Zoning

The site is zoned 2A Residential with the objective “To provide for residential development and associated uses”.

According to the Plan’s zoning matrix, a Carpark (Public) is a land use specifically not permitted. The matrix does not make any reference to private parking associated with commercial activities.

The buildings immediately east of the site are zoned 4A Light Industrial.

5.2. EIA Screening

Having regard to the nature, size and location of the proposed development within an urban, built-up serviced area, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- The car park is a change of use from residential zoned land to light industrial use, being connected to the business park. A public car park is not open for consideration in a residential area and the Development Plan zoning matrix does not include private car parks. The parking is not intended for residential use and is open to the public for those who visit the light industrial complex for employment, deliveries, and customer visits. Allowing a commercial use is a material contravention.
- The development undertaken is an ongoing visual blight and is unacceptable. The boundary wall that was removed should have been reinstated.

- The operation of the commercial car park at a more elevated level than the existing car park will create noise and nuisance to adjoining dwellings. The gym use will operate early in the morning and late at night unless restrictions are applied to protect residential amenity. Floodlighting is impacting on homes and the safety of residents.
- The land has become light industrial use and the use will devalue neighbouring houses.
- There is a c.3m height differential between the existing car park and the proposed car park and the ramp makes no accommodation for pedestrians. The previous planning permission was for a low-level car park and provided for a more seamless integration of the existing and proposed parking areas.
- In the event the Board is minded to grant permission, the appellant sets out a number of conditions that are requested to be attached.

6.2. **Applicant Response**

I have no record of any submission from the applicant in response to the appeal.

6.3. **Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

7.0 **Assessment**

7.1. Introduction

- 7.1.1. I consider the principal planning issues relating to the appeal are the nature of the proposed use and the impact on residential and other amenities.

7.2. The Proposed Use

- 7.2.1. I first note the previous planning history relating to this site. Under P.A. Ref. 11/770073, permission was granted for the change of use from light industrial to shop for units 2, 6 and part of unit 3 and to retain change of use from light industrial

to car repair workshop at unit 5 and for the extension of car parking from 17 to 48 spaces, demolition of front boundary walls and replacement with a realigned pygmy wall and railing, construction of new fence along the side boundary, and provision of new totem sign. The site of the current appeal was included as part of the area for car parking to be developed under this planning permission. It is, therefore, understood that the use of this site for car parking had previously been considered an acceptable and compatible use.

- 7.2.2. I note the provisions of Limerick City Development Plan as they relate to this site and the adjoining uses to the east. The site is zoned 2A Residential with the objective “To provide for residential development and associated uses”. According to the Plan’s zoning matrix, a Carpark (Public) is a land use specifically not permitted. I note that the matrix does not make any reference to private parking associated with commercial activities, which the proposed development would constitute. I further note that the buildings immediately east of the site are zoned 4A Light Industrial. Chapter 3 of the Plan is entitled ‘Economic Development Strategy’ and addresses employment, business, retail, light industrial and other commercial uses. ‘Non-Conforming Uses’ are addressed on page 3.9 of this chapter. The Plan states the following:

“Non-Conforming Uses

In relation to change of use, expansion and intensification of uses which do not conform to the zoning objectives for an area, the City Council will consider each case on its own merits, having regard to the impact on the surrounding environment.

Policy EDS.22

It is the policy of Limerick City Council where a use exists as non-conforming use, to facilitate their continued operation provided they do not seriously detract from the zoning objectives for the area or from residential or other amenities in the vicinity of the development.”

- 7.2.3. Having regard to the above, it is apparent that the use of this site for parking associated with the adjoining business activities has previously been permitted and that, while such use is a non-conforming use due to the land being zoned for residential use, it may be considered acceptable to facilitate continued operations at

this location provided such development does not detract from the zoning objectives, from residential amenity, or from the amenities of the area. It is, therefore, apparent that the Development Plan makes provisions for exceptions for development of this nature. It is, thus, concluded that the proposal does not unequivocally constitute a material contravention of the zoning objectives for this site and may be considered when due regard is had to its impacts on the amenities of the area.

7.3. Impact on Residential Amenity and the Amenity of the Area

- 7.3.1. The site is used as a car parking area to serve the mix of commercial uses to the east. It is very poorly presented at present, with a high, unsightly front boundary retaining wall and it is exposed to the west and the north due to poor fencing. The proposed use is not incompatible with the adjoining established uses which it would serve. Clearly its presentation could be significantly enhanced by the relatively minor changes proposed as part of the application. These primarily comprise screening provisions in the form of walls and the orderly layout of car parking spaces. Such works would only seek to significantly improve the presentation of this car park. I submit that the necessity to address the ramped access and to improve pedestrian access to the car park from the east are not merited as the access functions sufficiently. I further submit that there is no requirement to increase the proposed flank boundary wall height to over 1.8 metres as it would function adequately as a screen. This screening should also include a wall along the rear site boundary. Substantially increasing the height to 3 metres as requested by the appellant would likely constitute an unnecessary visually prominent structure.
- 7.3.2. Further to this, I note the provision of floodlighting, which can be understood in terms of making adequate health, safety and security provisions. The provision of such floodlighting can reasonably be controlled to prevent overspill onto adjoining lands and, thus, to minimise any nuisance. A condition attached with any grant of permission could address concerns relating to this issue.

- 7.3.3. Finally, the containment of this site by appropriate screening would significantly address noise emanating from the use of the car park. Furthermore, it would be reasonable to restrict the timing of the car park use to the operations of the adjoining uses and this could be addressed by way of condition.
- 7.3.4. Overall, it is considered that the proposed development can be accommodated without detracting from the zoning objectives of the area or undermining the residential and other amenities of the area and I consider that it is reasonable to determine that the proposed development would not result in devaluation of neighbouring property.

7.4. Appropriate Assessment

- 7.4.1. The site of the proposed development is located on the south-eastern side of Limerick City within the serviced urban area at a location which is separated from Lower River Shannon SAC (Site Code: 002165) and River Shannon and River Fergus Estuaries SPA (Site Code: 004077) by extensive buildings, infrastructure and other developments. Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and the separation distance to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as 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.

8.0 **Recommendation**

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

9.0 **Reasons and Considerations**

Having regard to the planning history of the site, the nature, extent, and location of the proposed development, its association with adjoining commercial uses, and the

provisions of Limerick City Development Plan as they relate to non-conforming uses, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be in conflict with the provisions of Limerick City Development Plan, would be acceptable in terms of its impact on residential and visual amenities of the area, and would otherwise 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. The car park and associated floodlighting shall only be used between 08.00 hours and 22.00 hours without a further grant of planning permission.

Reason: In the interest of residential amenity.

3. 1.8 metre high boundary walls, capped and rendered on both sides, shall be provided along the western and northern flank boundaries. Details of the layout and finishes of the walls shall be agreed in writing with the planning authority within two months of the date of this order.

Reason: In the interest of residential and visual amenity.

4. The proposed floodlighting shall be directed downwards in the direction of the car park area and shall be cowled to reduce light spill beyond the site. Details

of provisions to meet these requirements shall be submitted to and agreed in writing with the planning authority within two months of the date of this order.

Reason: In the interest of residential amenity.

5. No signage, advertising structures/advertisements, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

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

Kevin Moore
Senior Planning Inspector

3rd August 2021