



An
Bord
Pleanála

Inspector's Report ABP 310118-21

Development	Change of use of part of retail unit to use as a coffee shop and associated works.
Location	Unit No 2, Quin Road Business and Retail Park, Ennis, Co. Clare.
Planning Authority	Clare County Council.
P. A. Reg. Ref.	P21/119
Applicant	Fazammy Ltd.
Type of Application	Permission
Decision	Refuse Permission
Type of Appeal	First Party X Refusal
Appellant	Fazammy Ltd.
Date of Site Inspection	28 th June 2021.
Inspector	Jane Dennehy

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1.0 Site Location and Description

1.1. The application site is at Unit 2, in the front section of Block A of the Quin Road Business Park which is accessed off the R469 (Quin-Ennis Road) on the east side of Ennis town centre. Block A in which Unit 2 is located is at the front of the business park facing towards the road frontage and there is surface parking directly at the front of the block. The main internal access road to the rest of the business park is to the west side off which there is vehicular access to the rear of Block A and six other blocks with a wide range of light industry, distribution, utilities and public services, builders' providers, hardware, electrical and home furnishings retail stores. At the southern end of the estate there is a restaurant incorporating takeaway "Peppermill" and at the time of inspection notices displayed indicating that the restaurant operates on Wednesdays to Sundays inclusive and the opening hours.

2.0 Proposed Development

2.1. The application lodged with the planning authority indicate proposals for change of use of part of Unit No 2 within the Quin Road Business Park to use as a coffee shop and for associated works facilitating the proposed use. The stated floor area for the coffee shop use is 103 square metres. Included in the application submission is written consent from the registered owner of Unit 2.

2.2. According to the application, food (sandwiches and pastries) will be prepared off site with the café, in which some seating is to be provided is to offer a "quick food service offer" or "grab and go" service for employees within the business park and hours of operation intended are 0900 hrs – 1800 hrs. Mondays to Saturdays.

3.0 Planning Authority Decision

3.1. Decision

4.0 By order dated, 8th April, 2021, the planning authority decided to refuse permission based on the following reason:

"It is an objective of the Clare County Development Plan, 2017-2023 as varied, as set out in Objective V3(a) "to encourage the sustainable

development and re-use of sites for high quality retail warehousing and bulky comparison goods provision in the Quin Road Business and Retail Park". Having regard to the proposed nature and use of the subject unit, it is considered that the proposed development would represent sporadic and disorderly development, would represent an incompatible land use, would compromise the existing adjoining industrial uses and future expansion or changes to the same, which would injure the vitality and viability of Ennis town centre. The proposed development would therefore be contrary to the proper planning and sustainable development of the area."

4.1. Planning Authority Reports

- 4.1.1. The planning officer noted that the park is intended for light industrial and that an anchor retail warehouse use is to be encouraged and that it is the intention of the planning authority that a scheme for a series of operational measures to improve the appearance of the area with future proposals for the unit subject of the application being required to have regard to section 12, Volume 10(c) of the CDP.
- 4.1.2. The planning officer in his report notes a prior grant of permission elsewhere within the Quin Road Industrial estate for change of use of an office/training facility building to a restaurant/café with ancillary services and site works under P. A. Reg. Ref.06/16 and for a change of use of part of Unit 2 to a coffee shop under P. A. Reg. Ref. 05/158.

5.0 Planning History

- 5.1. According to the planning officer report, Permission was originally granted for six light industrial warehousing units and an office block under P. A. Reg.Ref.92/105.
- 5.2. Under P. A. Reg. Ref. 13/60 Permission was refused to the HSE for change of use from offices to clinical and office use on grounds that clinical use is in material conflict with the zoning Objective COM4 in the Ennis and Environs Development Plan, 2008-2014 which provided for a single development of at least three retail warehouses and associated parking with trading only in Bulky Goods rather than convenience or comparison goods, and in that the latter "would further dilute the commercial and retail uses in this area".

- 5.3. There is a record of a number of minor applications for which permission was granted but which are not of direct relevance. (P. A. Reg. |Ref 96/42, 04/145,)8/168 P09/70 refer.)

6.0 Policy Context

6.1. Development Plan

- 6.1.1. The operative development plan is the Clare County Development Plan, 2017-2023 and specifically, Volume 3A Ennis Municipal District according to which the site location is within an area subject to the zoning objective “COM4 - “Commercial” for which commercial and business uses to include offices, service industry, warehousing and facilitation of enterprise/retail park/office type uses are appropriate. Retailing is open for consideration provided that a sequential test is carried out and the site is at the optimum location for the nature and quantum of retail development proposed.
- 6.1.2. **Retail Parks are under section 1.7.7 in Volume 3A Ennis Municipal District:**
According to Objective: “COM4 Quin Road Business and Retail Park” the business park was originally developed by Shannon Development and contains a mixture of light industrial and retail uses. An anchor retail warehouse tenant in a high-quality building will be encouraged within the park. During the lifetime of this Plan the Council will require the preparation of a scheme to implement a series of operational measures to improve the appearance of the area, address the proliferation of signage and improve way-finding, roads, signage, and boundary treatments. (Future development proposals on this site must be progressed having regard to Section 12 in Volume 10(c) of this Plan)
- 6.1.3. According to Objective V3(a) 9 it is an objective of Clare County Council: To encourage the sustainable development and re-use of sites for high quality retail warehousing and bulky comparison goods provision in the Quin Road Business and Retail Park and the Ballymaley Business Park, having regard to the Retail Planning Guidelines and the Mid-West Retail Strategy 2010-2016 and any updated versions of same

7.0 The Appeal

7.1. Grounds of Appeal

An appeal was lodged on behalf of the applicant by Coleman and Associates on 4th May, 2021. According to the appeal:

- Restaurant and café use is not at odds with the zoning objective 'COM4' under which it is "permissible in principle", only part of the Unit (Unit 2) is proposed for the use and it is intended to serve workers at the Business Park.
- There are five restaurant/cafes in the Shannon Industrial Free Zone and Smithstown Industrial Estate. They are secondary or ancillary to the main retail, warehouse and industrial uses in these areas.
- There is a recent trend towards restaurants and cafes as individual pods most of which are stand-alone, new build developments throughout the country at business and retail parks and are operated by well-known operators which make them destinations in their own right. These units would have more impact on their locations than the proposed development. (A list of examples is provided in the submission – Table 2)
- There is also relevant precedent by reason of a grant of permission following appeal, for a pod with a GFA of 247 square metres at Globe Retail Park, in County Kildare. The Inspector in his report remarks that the scale and use is acceptable and compatible with the zoning objective and would not detract from the vitality and viability of Naas town centre or the Monread District Centre. (PL 245905 refers.) The planning authority had refused permission for reasons of material contravention of a condition attached to a prior grant of permission under P. A. Reg Ref 02/2504 and of the retail policy of the CDP, and displacement of car parking spaces and building setback. The current proposal according to the appeal is not new build, will not be run by a well-known operator will not become a destination in its own right and will not affect the vitality of viability of Ennis Town Centre.
- The units at the Business Park are occupied by a large number of different uses many of which are incompatible with the zoning objective whereas the

proposed development would be compatible with the surrounding uses and would provide a service to the working population at the business park. (A list is included in the submission.)

- A grant of permission would not set undesirable precedent due to the limited scale and the nature of the development in terms of impact on the town centre of Ennis or the nature of use at the Business Park. in which it would be an ancillary use secondary to the retail, warehouse and industrial uses and it would enhance the quality of the business park. It would reduce the need for customers to travel elsewhere to avail of the facilities on offer.
- There is no reason as to why the current proposal cannot be accepted given the estate has expanded considerably since permission was granted for coffee shop/restaurant use under P. A. Reg. Ref. 06/21026 and 05 21158 the latter of which was for Unit 2, Block C but was not implemented. In both instances the proposals were deemed to be serving the estate and within walking distance of other premises. The permitted restaurant under P.A> Reg. Ref. 06/21026 is at the opposite side of the business park and is different in that the intended purpose of the coffee shop is for “grab and go” of food and coffee.
- The planning authority has been inconsistent in determining applications for locations within the business park in granting permission for change of uses from light industry, retail and warehousing to uses which are not permittee uses under the Commercial Zoning. Examples are: - a grant of permission for change of use to children’s play and recreation at Block 4, Riverside, Quin Road Business Park; a grant of permission to a fitness studio at Site 4 Unit 1, Riverside Quin Road Business Park.
- Another example, with regard to inconsistency in decision making is a proposal made under Part 8 under Ref. 18-8008 is a change of use and subdivision of an industrial estate to a civil defence headquarters and records management centre and associated structures, signage, alterations, services and boundary treatment whereby some of the uses were permitted in principle and others ‘open for consideration’ within the zoning matrix and whereby

there was conflict with Objective V3(a) 9 of the CDP which seeks use of site for high quality retail warehousing and bulky comparison goods provision.

- A further example is at the Shannon Free Zone where there are three café/restaurant developments in areas zoned 'Light Industrial' in which café/restaurant use is, 'open for consideration': Under P. A. Reg. Ref. 17/111 the planning officer noted that the proposal Starbucks Café with a floor area of 203 square metres was for a café (which is stated to be twice the size of the current proposal) to serve the business park and adjoining enterprise land and had regard to the distances from the town centre, the scale and nature, a prior grant of permission for development increasing employment population in the area, the site location and (1 km) distance from an existing café.
- There is adequate carparking available at the front of the building to serve the development although many customers will be within walking distance. The development would not be a significant trip generator.
- Objective V3 (a) (9) encourages re use of sites, and the application is site is vacant. The re-occupation and café use shop should be encouraged. It will provide some employment and will not be a source.

7.2. Planning Authority Response

7.2.1. A response was received from the planning authority 27th May, 2021 the contents of which are outlined below:

- It is acknowledged that the development is relatively small but submits that a sequential test is warranted in order for it to be considered as an optimum location for the coffee shop. It is also stated that the Ennis Town centre is within easy and accessible walking distance from the site location and that there are many vacant premises within the town centre where a coffee shop would be appropriately placed and would enhance the vitality and viability of the town centre. There is concern that the proposed development would compete with the potential similar use of similar sized units in the town centre.
- The proposal is at odds with the zoning objective and established use. The planning history was considered but that only one grant of permission for

development was taken up (The Peppermill Restaurant at the rear of the business park permitted under P. A. Reg. Ref. 06/26.) It is sufficient for the business park's catchment. Coffee shops are not a primary use for business parks and other uses override it.

- The internally layout does not lend itself well to use as a “coffee shop” and it could be operated as a take-away type of premises or fast-food outlet for consumption off site which is not considered appropriate.
- The proposed development would result in unacceptable establishment of precedent in relation to small retail units in the Business Parks and that Ennis town centre is well served in that there are vacant units and areas where the proposed development would be accommodated and would lobe compatible e with the established uses and zoning objectives.

8.0 **Assessment**

8.1. The issues central to the determination of a decision are considered below under the following subheadings.

- Impact on town centre retailing.
- Consistency with Zoning and strategic development objectives
- Precedent.
- Environmental Impact Assessment Screening
- Appropriate Assessment Screening.

8.2. **Impact on town centre retailing.**

8.2.1. The Quin Road Business Park is of considerable size and has a range of uses and it is agreed with the appellant that the nature of use of some of the tenancies, such as children's play facilities, the Civil Defence Centre and HSE are somewhat peripheral to the light industrial or retail warehousing uses intended for business parks. The existing café/restaurant/takeaway is located at the southern end of the estate and although a signpost for it from the Quin Road outside the estate public road was noticed during the inspection, it has a greater distance from the town centre than the location for the proposed development, at Block A, facing the Quin Road for which

there is no requirement to use the internal access road within the estate. It would be reasonable to assume that the Peppermill Restaurant would not unduly undermine the vitality and viability of the town centre in that it would not have a catchment that would result in significant diversion of potential town centre customers and diners.

8.2.2. In contrast, although a relatively small premises is indicated for the proposed development, and no formal sequential test is available, there is little doubt that 'trade diversion' would be generated in that it would attract diners and customers from the surrounding area between the site location and the town centre in which there is residential development and a range of commercial, institutional, services and retail uses as well as from within the business park itself. To this end, it is considered that the catchment would differ from that of the Peppermill by reason of the location at Block A overlooking the public road and significantly closer proximity to the town centre.

8.3. Consistency with Zoning and strategic development objectives.

8.3.1. It is indicative from the planning officer report that the objective V3(a) 9 provided for the business park within the Ennis Municipal District Plan (Vol 3 (a) - CDP) with regard to the intended light industry use and operational measures to facilitate encouragement of a major anchor tenant and improvements to the appearance of the estate being is fully warranted and justified.

8.3.2. It was apparent in the course of the inspection that business park, initially established by Shannon Free Development has expanded incrementally is somewhat fragmented contains a proliferation of signage resulting in visual clutter and is lacking in coordinated wayfinding and signage and a hard and soft landscaping scheme for the park resulting in a poor visual presentation hindering the potential to high quality retail warehousing tenancies.

8.3.3. It is agreed with the appellant's agent that some of the tenancies are not in uses that consistent with the light industrial use intended for the business park by way of the zoning and strategic objectives. However, it is not agreed that further tenancies in uses not consistent with these adopted objectives including the proposed café use can therefore be justified and accepted. These uses would result in further deterioration of uncoordinated and haphazard development in terms of the tenancies and land uses which would militate against and undermine the scope for

achievement of the improvements provided for in the objectives for the business park.

8.4. Precedent.

- 8.4.1. With regard to precedent, it is not established that the precedent cases referred to in Shannon and in Kildare, which are not subject to Vol 3A of the CDP and any associated retail strategy, in the appeal are comparable for the purposes of precedent, particularly having regard to locations relative to the centres of settlements and sequential testing.

8.5. Environmental Impact Assessment Screening

- 8.5.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area in the city, 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.

8.6. Appropriate Assessment Screening.

- 8.6.1. Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. 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

9.0 Recommendation

In view of the foregoing, it is agreed with the planning authority that permission should be refused in that the proposed development would be contrary to the zoning and specific objectives, as provided for in Objective V3(a) 9 of the CDP in that it would represent disorderly development at the site location in an inappropriate use which is counter to and, would compromise the protection and enhancement of the vitality and viability of the town centre of Ennis and the encouragement and facilitation of use of premises within for high quality retail warehousing and bulky comparison goods provision within the retail park. Reasons and Considerations follow.

10.0 Reasons and Considerations

1. The proposed development of a café, an inappropriate use at the front of the Quinn Road Business and Retail Park, in close proximity to Ennis Town Centre, would constitute sporadic disorderly development which would detract from and adversely affect the vitality and viability of the town centre, is counter to and, would compromise the protection and enhancement of the vitality and viability of the town centre of Ennis, would set undesirable precedent for similar development and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development represents an incompatible use counter to the encouragement and facilitation of use of premises within for high quality retail warehousing and bulky comparison goods provision within the retail park. As a result it would be contrary to the COM4 Quin Road Business and Retail Park zoning and specific objectives, as provided for in Objective V3(a) 9 of Volume 3 A (Ennis Municipal District) of the Clare County development Plan, 2017-2023 DP according to which an anchor retail warehouse tenant in a high-quality building will be encouraged within the park and, during the lifetime of this Plan the Council will require the preparation of a scheme to implement a series of operational measures to improve the appearance of the area, address the proliferation of signage and improve way-finding, roads, signage, and boundary treatments. The proposed development would set undesirable precedent for similar development and would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
30th June, 2021.