



An
Bord
Pleanála

Inspector's Report ABP-311216-21.

Development	The retention of an industrial facility including a storage/workshop.
Location	Yellowshar, Kilmoon, Ashbourne, County Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	211608.
Applicant	Gael Form Limited.
Type of Application	Permission
Planning Authority Decision	Refusal (four stated reasons)
Type of Appeal	First Party
Appellant	Gael Form Limited.
Observer(s)	None.
Date of Site Inspection	1 st March 2022.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by the applicant against the decision of the planning authority to refuse permission for the retention of a number of commercial buildings within an existing operation in a rural area north of Ashbourne, County Meath. Four grounds of refusal are set out, all relating to policy and to traffic hazard.

2.0 Site Location and Description

2.1. Yellowshar

The townland of Yellowshar is located in a rolling agricultural landscape just west of the N2, approximately 6km NNW of the town of Ashbourne in County Meath.

Yellowshar is on the north-east side of a ridge, some 120 metres AOD, with levels dropping down to the large pasture fields that characterise the area. The small settlement of Kilmoon is approximately 1-km to the north-east. The area is served by a network of third-class roads of varying quality, mostly linking to the N2 to the east. To the north of the townland, on a bend in the road, is a large restaurant/bar/hotel, known as the Snailbox. Just south of this is the junction with a minor third-class road that leads south to the appeal site.

2.2. Appeal site

The appeal site, with an area given as 1.94 hectares, is a roughly triangular area of land on the western side of a minor third-class road, 200 metres south of the Snailbox. The site is mostly developed and fenced and has a number of industrial type structures with open storage areas. It is paved and surrounded by security fencing. The land use is described by the applicant as the manufacturer and distributor of formwork, formwork accessories, and scaffolding.

The site directly connects to the minor third-class road at a point where this road becomes a private track. Just to the north, and on a lower level, is a separate small commercial facility (part of the overall site), apparently a manufacturer/sales facility for granite kitchen tops. **East** of the site is a large agricultural holding, with levels dropping distinctly down to the N2, some 500 metres away. The fields are intensively worked – older maps indicate a quarry on part of this field. To the **west** and **south** of the appeal site are further open fields. To the **north** is a dwelling.

3.0 Proposed Development

The proposed development is for the retention of an industrial facility including a storage/workshop authorised under grant of permission (**P81/319**), 2 no. buildings used as storage/workshops; a structure used for covered open storage; ancillary offices; staff rooms (5 no.); external storage areas; car parking facilities and related site development works, and for the installation of a proprietary wastewater treatment system and soil polishing filter.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for 4 stated reasons, in summary:

1. It is not considered that a justification or need has been justified in a rural location, and as such contravenes policy SS OBJ 12 and SS OBJ 4.
2. It is considered that it is contrary to policy on businesses in the countryside (ED POL 21).
3. It is considered contrary to policy on development on national and secondary roads (TRAN POL 28 and RD POL 37).
4. It is considered that it would endanger public safety by reason of traffic hazard and obstruction of road users with regard to the 2012 Guidelines on development on national roads.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The planning history of the site is summarised – a permission for a single commercial unit on the site granted in the early 1980's, subsequent to this, refusals for additional units and for adjoining dwellings in the vicinity.
- Notes one submission by a local resident objecting to the retention.
- Notes submissions from the public, Irish Water, and internal consultations.

- The activities on the site are considered to be industrial in nature. Notes the claims that there are two operations on site – the marble/countertop business and the construction related business – it is stated that the latter also operate on zoned lands in Ballivor, Co. Meath.
- The Planning Statement submitted is noted – it is stated that it is not considered that this provides sufficient justification to warrant a favourable consideration of the proposal.
- The layout of the structures is noted – it is stated that this indicates a variety of uses and potential businesses operating within the planning unit. It is considered that this is contrary to Section 4.4.1 of the CDP (2013) and contrary to ED POL 21.
- The detailed report submitted by the Transportation Section is considered. It is noted that this report concludes that there has been no significant change in the proposals since the previous refusal (upheld by the Board). It is noted that it is within the corridor map for the N2 Rath Roundabout to Kilmoon Cross scheme, although it is outside the Emerging Preferred Option corridor. It is noted that the Transportation Section recommends refusal for two reasons – contrary to policy on strategic infrastructure, and contrary to policy with regard to the 2012 National Guidelines.
- It is noted that Environment Section has no objection to the proposed wastewater treatment discharge.
- EIA was screened out as it is not considered to be a use listed in Schedule 5.
- Notes that there is an SAC and SPA within 15km of the site, but there are no apparent hydrological links. An AA Screening Statement was submitted with the application. This screened out the possibility of any effects – the planning authority concurred with this.
- Refusal was recommended for four stated reasons.

4.2.2. Other Technical Reports

Transportation Department: Refusal recommended for traffic and policy reasons.

Environment Department: No objection subject to conditions.

Water Services: No objection subject to conditions.

4.3. **Prescribed Bodies**

Irish Water. Notes no connection with water supply feasible as nearest main is 6km away.

4.4. **Third Party Observations**

Catherine O'Reilly of Primatestown (townland to the east of the site) submitted an observation, claiming that there has been a recent significant increase in noise from the site and objecting to the retention.

5.0 **Planning History**

In 2003 the Board, on appeal, refused permission for the construction of a car park and storage yard (upholding the Council decision **DA30188**) on the site for two reasons. It was stated to seriously injure the rural character of the area and materially contravene section 2.2.3 of the CDP. It was also considered that it would endanger public safety by reason of a traffic hazard (**PL17.204693**).

In 1981 permission was granted for a workshop on the site (**81/319**). The workshop is at the north of the current site with an approximate floor area of 340 square metres.

The planning report state that a warning letter for enforcement action was issued (**UD19011**).

There were a number of appeals on the lands to the north of the appeal site, in including **PL17.81552** and **PL17.87104** – these were refusals for individual dwellings. There is also a record of an appeal on the former quarry to the north-east – **PL17.122140**, but no details of this are available.

6.0 Policy Context

6.1. Development Plan

The appeal site is in open countryside with no specific zoning designation. The planning authority quoted a number of policies (discussed in more detail below) in their refusal. I note that these relate to a development plan that is now superseded – since February 2022 the operative CDP is the 2001 -2017 Meath County Development Plan.

6.2. Natural Heritage Designations

There are no EU designated habitats within 10 km of the site. The closest is the River Boyne and Blackwater SAC and SPA, some 13 km to the north-west. The site is not within the Boyne or Blackwater catchments.

6.3. EIAR

Having regard to the nature of the proposed development, its relatively small scale within an area zoned for housing, and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- The applicant's agent provides background to the application company. GaelForm Ltd was established in 2012. It has a facility in Trim but does not have space for storage facilities. The proposed development was purchased to alleviate problems in the main facility in 2013.
- It is submitted that at the time of the purchase, the land was divided into three 'yards', all used for storage and related uses. It was considered that the use of the lands for storage had been established.

- An additional workshop was provided in around 2014-2016 to facilitate the growth in the business, which has clients in Ireland, the UK, Europe and north America.
- The application was made to regularise what were considered to be established uses on the site.
- It is argued that the 2040 NPF (Objective 10b) and the Regional Spatial Strategy (RP06.2) support the development of such industries.
- It is noted that the CDP (ED POL 20 and ED POL 21) supports appropriate businesses locating in the countryside where appropriate. It is argued that the proposed development is appropriate within this context.

With regard the specific reasons for refusal:

Reason no.1:

- It is argued that the policies referred to – SS OBJ 12 and SS OBJ 4 relate to the consolidation of small towns, and as such is not relevant to the question of the location of the proposed development in a rural area. It is also submitted that insufficient weight was given to the established long-term use of the site.

Reason no.2:

- It is argued that the planning authority has failed to assess the application on its own merits, in particular to the statement in the County Council Economic strategy that a proactive flexible approach to development within the county is appropriate.
- It is argued that the site is appropriate for the proposed use, as it requires an extensive area of land for storage (not available in the industrial estate in Trim) and that zoned land would be prohibitively expensive.
- It is argued that the site provides significant employment (stated to be 50-60 people) in the rural area.
- It is noted that the site was a former quarry, and there has apparently been a consistent long term commercial use on the site.
- It is argued with regard to traffic and environmental noise and water run-off that reports submitted with the application and appeal address these fully.

- It is argued that the site is fully in accordance with development management standards as set out in section 11.8.1 of the CDP with regard to design, landscape impact, parking, etc.

Reason no.3:

- It is argued that this reason should only relate to sites on or adjoining national primary or secondary roads. It is further noted that the planning authority did not accept the second of the recommended reasons for refusal requested by the Transportation Section.

Reason no.4

- It is submitted that traffic movements have significantly decreased (refers to Engineering Report submitted with the application). It is further noted that the Inspectors Report in the previous appeal did not consider that there was a traffic hazard. It is further noted that since the previous Board decision, the N2 has been diminished as a national route due to the construction of the M1. It is therefore argued that the volume of traffic generated has decreased and there is no demonstrable traffic hazard at the site.

7.2. Planning Authority Response

The planning authority requests that the Board uphold its decision to refuse.

7.3. Observations

None on file.

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following general headings:

- Principle of development
- Local context
- Traffic
- Amenity
- Public health
- Flooding
- Appropriate Assessment
- Other issues

8.1. Principle of development

The appeal site is in open countryside without a specific zoning objective. The application and decision were made under the Meath County Development Plan 2013-2019. A new Meath county development plan (2021-2027) was adopted in February 2022. There is a LAP for Ashbourne, but it does not cover Yellowshar.

Policies set out as relevant by the planning authority include **ED POL 21; SS OBJ 12** and **SS OBJ 4; TRAN POL 28** and **RD POL 37**.

ED POL 21 states that it is policy:

To permit development proposals for industrial or business enterprises in the countryside where generally the following criteria are met:

- (i) the proposed use has locational requirements that can more readily be accommodated in a rural location than an urban setting and this has been demonstrated to the satisfaction of Meath County Council;
- (ii) the development will enhance the strength of the local rural economy
- (iii) the resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area;

- (iv) the proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations;
- (v) the proposal is in accordance with the policies, requirements and guidance contained in this plan
- (vi) it is demonstrated to the satisfaction of Meath County Council that the proposal would not generate traffic of a type and amount inappropriate for the character of the access roads or would require improvements which would affect the character of these roads. This policy shall not apply to the National Road Network.

There is no direct equivalent of this policy in the 2021 CDP, although **ED POL 16** states that it is policy:

To support the location of a once off medium to large-scale rural enterprise only in instances where it is demonstrated, to the satisfaction of the Council, that the enterprise can be more readily accommodated in a rural setting than in a designated settlement centre and subject to standard development management considerations being applied.

Policies SS OBJ 12 and SS OBJ 4 state that it is policy to:

SS OBJ 12: To ensure that Small Towns develop to cater for locally generated development and that growth occurs in tandem with local services, infrastructure and demand.

SS OBJ 4: To focus development on the high quality integrated growth and consolidation of the identified Large Growth Towns enabling them to act as key employment and service centres in the county, to ensure that all other towns develop at a sustainable rate to facilitate self sustaining expansion and to protect agricultural and amenity lands for their primary purpose.

These policies are not repeated in the 2001 CDP, the nearest equivalents being **SH OBJ 1:**

To secure the implementation of the Core Strategy and Settlement Strategy, in so far as practicable, by directing growth towards designated settlements, subject to the availability of infrastructure and services.

TRAN POL 28

To safeguard the capacity and safety of the National Road network by applying the provisions of the Department of Environment Community and Local Government's – 'Spatial Planning and National Roads-Guidelines for Planning Authorities'

The equivalent in the 2021 Plan is **MOV POL 24**:

To safeguard the capacity and safety of the National road network by applying the provisions of the Department of Environment Community and Local Governments – 'Spatial Planning and National Roads-Guidelines for Planning Authorities, 2012' to avoid the creation of any additional development access to national roads and intensification of existing access to national roads to which speed limits greater than 60kph apply, save in accordance with agreed 'exceptional circumstances' included in MOV POL 33.

I consider that while the Development Plan is substantially different, the overall aims and objectives have not substantively changed, and the overall national and regional context, in addition to the main relevant guidance (the 2012 National Road guidelines) have not altered substantively.

The commercial use, along with a 360 square metre structure, were granted permission in the early 1980's. Since then, there have been refusals, upheld by the Board, for commercial development on the site and residential development to the north. I note from older maps that the upper part of the site (where the granite workshop is now located) and possibly part of the lands on the eastern side of the access road were once a quarry, probably a limestone rock quarry. This quarry was probably pre '63 and has not been used since at least the early 1980's, probably much earlier.

While details of the policy have changed since the original Board decision and the more recent refusal by the planning authority, I could consider that the overall principle that a rural site such as this is not appropriate for larger scale commercial development is well established and supported by current national, regional and development plan strategy, as well as the planning history of the site. In the context of current development plan policy, there is an onus on the applicant to demonstrate special circumstances to justify locating the facility on this site and in the immediate area and not on appropriately zoned lands.

The applicant makes the point that in national, regional and local policy there are clear objectives to facilitate where appropriate employment and business opportunities in rural areas, and that the site has a long history of non-agricultural use, extending back to when it was a quarry -few details are on file of the nature and use of this quarry, but it does appear to have been a substantial operation that operated for several decades. I concur with the general point made by the applicant that within the policy context there is scope for pragmatic decision making to protect and encourage local jobs and to acknowledge the sometimes ambiguous distinction between those operations that are only suitable for zoned commercial lands, and those which fit comfortably within rural areas. The applicant has outlined the history of the operation which appears to be a successful manufacturing/building services company with significant need for a large area of land for storage in addition to its other operations. I would further note that the overall area is one of very intensive farming and this includes what are almost industrial scale farm operations.

I conclude that while taking account the planning history of the site and the policy objectives quoted by the planning authority there is a presumption against such developments, there is sufficient scope within overall policy to permit a development such as this if it can be demonstrated that the operation is of a scale and nature that would fit within its context. On balance I do not consider that these exemptions apply for reasons that I will elaborate upon in more detail in the sections below. But I consider that the two key issues are that the site generates significant traffic on a minor country road, and the site is not served by a public water or sewage supply. On balance, therefore, I concur with the conclusion of the planning authority that the retention of the development would be contrary to the stated policies and the

planning history of the site and that there are no extenuating circumstances that would justify a grant of permission.

8.2. Local context

The appeal site is on a bluff overlooking the open plains of north-eastern county Meath to the north-east. The area is characterised by large open intensively worked fields and large farmholdings, with scattered dwellings, some small clusters, and a number of commercial operations. The N2 runs more or less north to south on low ground about 500 metres to the east. The area is served by a network of L-roads, although some are quite wide and close to regional road standard.

The appeal site is located at the end of a narrow L-road that continues on further south as a unpaved track. There are a small number of dwellings along the 200 metre stretch to the appeal site, including one directly adjoining to the north. The site consists of two main elements – a smaller commercial operation (granite worktops) on the southern side – this is lower in level than the surrounding land, probably the base of the former quarry. This structure and use appears to have planning permission dating from the early 1980's. South of this is a larger area with a number of commercial structures and paved areas with staff facilities. The site is surrounded by high hedges and fences and despite its elevated location in the landscape is not particularly visible from public areas outside the immediate vicinity.

In the wider area, there is a large roadhouse with pub, restaurant and accommodation, and to the east, opposite the N2, a small village. Farming in the area is at a large scale and there are some extensive farm structures around the Kilmoon area.

While the area has clear urban influences due to its proximity to a number of towns and the N2, it is rural in nature and ambience and as such I would consider the overall thrust of plan policy to be correct to identify it as inappropriate for the type of commercial use usually found in dedicated industrial/commercial areas. I note that while the local infrastructure appears to be well used for large vehicles thanks to the large scale of agriculture in the area and possibly quarrying, any commercial development in the area would have to use what is essentially a network of rural roads.

8.3. Traffic

The site accesses a very narrow minor third class road that runs north for about 250 metres to join a relatively wide and well trafficked third class road. The junction is on a bend and a drop in levels (to the north-east), and close to the Snailbox complex. There are three dwellings on the minor road and a number of other dwellings west of the Snailbox. The site is approximately 600 metres from a junction with the closest main road, the N2. The previous Board decision relating to the site included a refusal on traffic safety grounds.

The applicant has submitted traffic figures indicating relatively few heavy vehicle movements. The planning authority did not dispute the figures provided, although it seems likely to me that an operation of this type would have very seasonal and variable levels of traffic movement. The short stretch of third-class road is clearly substandard for such a level of traffic, but the road between the Snailbox and the N2 is reasonably wide for a third-class road although it lacks a footpath or hard shoulder. The junction of this road with the N2 is up to standard in terms of visibility.

The Transportation Section of the planning authority set out two reasons for refusal (both accepted by the planning authority) – one relating to traffic hazard (with regard to the 2012 Spatial Planning and National Roads Guidelines), the other to policy POOL 36 ‘to develop and maximise the opportunities of the county’s national primary and secondary roads as key strategic infrastructure vital to the county’s continued economic development and to protect this strategically important infrastructure from unplanned ribbon development or random one-off housing development’. It noted a number of other deficiencies in the application such as an absence of cycle and disabled parking, but noted that these could be addressed by condition.

While the two traffic related reasons for refusal relate to different policy objectives, I would consider that they essentially come down to one issue – the location of a commercial site which will generate significant numbers of traffic movements in a rural area contrary to the 2012 guidance and development plan policy to direct such developments to urban areas and those areas with sufficient road capacity. The previous Board decision (**PL17.204693**) refused for reasons of traffic hazard by way of interference with the L road and the N2. While I note that since that decision the M3 has substantially taken traffic off the N2, I do not consider that this changes the

context of the proposed development sufficiently to justify not repeating this reason for refusal. I therefore recommend that the proposed retention is refused for generally the same reason as PL17.204693.

8.4. Amenity

There is a dwelling immediately to the north of the appeal site, and two other single house dwellings on the opposite side of the road approximately 100-120 metres from the site. All three are close enough that any noise or dust arisings may have some impact, as would heavy traffic on the access road. I note one observation to the original planning application on file objecting on the basis of noise and disturbance.

8.5. Public health

The proposed development includes a proposal for a wastewater treatment system with a soil polishing filter. This is to provide for toilet facilities for staff. It is unclear from the information available how wastewater is currently treated on site or if there are substantial wastewater arisings from any manufacturing operations. The Environment Section of the planning authority had no objection to the proposal. I would note that the application appears to assume a future water connection from Irish Water, but in their submission Irish Water has stated that this is not feasible. Given the ambiguity of the nature of the operations within the site, I would have strong concerns about the very minimal amount of information provided about water provision, use, and disposal on the site.

There is little detail on how other contaminated water (from run-off, or cleaning) would be treated – it is indicated that an attenuation tank is to be provided for storm water.

If the Board is minded to grant permission, I would recommend that additional information be sought on this issue. But as there are other substantive reasons for refusal, I do not recommend this as a reason for refusal as it would constitute a new issue.

8.6. **Flooding**

The proposed development is on high ground in an area with no record of fluvial or pluvial flooding.

8.7. **Appropriate Assessment**

The application was screened by the planning authority – it was concluded that no phase II appropriate assessment was required.

The closest EU designated habitat is the Boyne and Blackwater SAC and SPA. The **River Boyne and River Blackwater SAC** (002299) has qualifying interests of alkaline fens, alluvial forests, and the presence of River Lamprey, salmon and otter. **The River Boyne and River Blackwater SPA** (004232) has a single qualifying interest – the presence of Kingfishers.

These two largely concurrent designated habitats are freshwater riverine habitats and designated for a variety of related habitats and species. They are at their closest some 13km to the north-west. The site is not within the catchment of these rivers and there is no evidence of hydraulic continuity between the site and any part of the surface water catchment of the designated habitats or any other EU designated habitats.

The area is generally intensively worked agriculture, with thick hedgerows providing some habitat. There are no water bodies on or close to the site and no watercourses – just farm and road drains (dry at the time of my site visit). The appeal site is entirely developed, so there would be no loss of habitat or significant alteration to local drainage. As noted above, I have reservations regarding the proposed disposal of wastewater from the site and the absence of a potential connection to the public water supply, but as the site is not within the catchment of the Rivers Boyne or Blackwater, I do not consider that there are any potential pathways of pollution to those, or any other designated habitats.

Having carried out Screening for Appropriate Assessment, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002299 or 004232, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required. In

this, I have had specific regard to the scale and nature of the proposed development and its location outside the watershed catchment of the designated freshwater habitats.

8.8. Other issues

There are no indications of archaeological remains on or adjoining the site and no structures on the NIAH list in the vicinity. There is a cluster of recorded ancient monuments to the south-west of the site, although as the lands have been substantively disturbed, I do not consider that there are likely to be any archaeological features surviving on the appeal site.

I do not consider that there are any other substantive issues raised in this appeal.

9.0 Recommendation

I recommend that the Board refuse permission for reasons generally similar to that set out by the planning authority and the previous appeal for the site.

10.0 Reasons and Considerations

1. Having regard to the location of the site within a rural area, the generally substandard level of infrastructure in the vicinity, policy objectives SS OBJ 12, SS OBJ 4 and ED POL 21 of the previous County Development Plan and the planning history of the site, it is considered that the development proposed to be retained would be contrary to the stated policy objectives of the development plan. It is considered that these policy objectives have not substantively changed in the current 2021 Meath County Development Plan adopted in February 2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the development proposed to be retained would endanger public safety by reason of traffic hazard because of the additional

traffic turning movements the development would generate which would interfere with the safety and free flow of traffic on the adjoining county road the L-road and the nearby National Primary Route, the N2.

Philip Davis
Planning Inspector

4th May 2022