



An  
Bord  
Pleanála

## Inspector's Report ABP-311267-21.

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<b>Development</b>	Revised design of an industrial building for use as a proposed service garage, PA ref: 19/763 refers, and all associated site works.
<b>Location</b>	Raheen Industrial Estate, Raheen, Co. Limerick.
<b>Planning Authority</b>	Limerick City & County Council.
<b>Planning Authority Reg. Ref.</b>	21/426.
<b>Applicant(s)</b>	T. Nolan & Sons Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Thomas Ryan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	21 <sup>st</sup> September 2022.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site lies within the established Raheen Industrial Estate, located to the south of Limerick City. The subject site comprises a vacant site between two established businesses and lies to the north of the M20.
- 1.2. The site has a stated area of 1.213ha and was inaccessible on the date of my site inspection due to locked gates and high fencing already in place. To the rear (south) of the site, there is a 25m high telecommunications monopole. Site levels rise from the west to the east, with the existing industrial unit to the west being located at a lower level to the subject site.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for revised design of an industrial building for use as a proposed service garage, incorporating ancillary office and storage areas, located on Site A from what was previously granted under planning reference 19/763, an environmental unit located at the rear of Site A, signage on facade of proposed industrial building and free standing signage and flag poles to front of Site A and all associated site works, all at Raheen Industrial Estate, Raheen, Co. Limerick.
- 2.2. The application included a number of supporting documents including as follows:
  - Plans, particulars and completed planning application form
  - Cover letter
  - Letter from Applicant
  - External lighting design document
  - BDB Consulting Planning & Environmental Services cover letter
  - BDB Consulting Planning & Environmental Services Sewer Network Design, Material Storage & Disposal Report.
- 2.3. Further information was sought with regard to a number of issues. Following the submission of the response, the development was readvertised.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to grant planning permission for the revised design for the industrial building subject to 6 conditions, including condition 5 which requires that within 1 month of the receipt of the final grant notification, the applicant shall submit a revised surface water disposal system plan, in line with the requirements of the Limerick City & County Council Operations and Maintenance Section set out in the report on file dated 04/08/21.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The initial Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, planning history and the relevant Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The report notes that the reason for the proposed revised building, and increased floor area to 1,592.73m<sup>2</sup>, arise due to new guidelines and recommendations at workplaces following the pandemic. Further information was sought in relation to the matters raised in submitted reports.

Following receipt of the response to the further information request, the Planning Officer concludes recommending that permission for the proposed development be granted. This Planning Report formed the basis of the Planning Authority's decision to grant permission.

#### 3.2.2. Other Technical Reports

**Mid-West NRDO:** No observations to make.

**Operations and Maintenance Section (Roads Section):** Further information required with regard to compliance with DMURS, car parking arrangements, traffic and pedestrian routes, surface water disposal system and SuDS. It is further noted that surface water is to be disposed of via the existing 600mm diameter pipeline outside of the application site. Written permission from owner required.

Following the submission of the response to the FI request, the Operations and Maintenance Section raised no further objections subject to compliance with conditions including the requirement to submit revised proposal for the surface water disposal system plan.

**Fire Officer:** Issues raised regarding the stair access to the first-floor offices.

Following the submission of the response to the FI request, the Fire Officer raised no further objections.

**Environmental Services:** Further information required in relation to how hydrocarbons will be intercepted and waste oils / brake fluids / gearbox fluids etc will be stored pending collection for disposal.

### 3.2.3. Prescribed Bodies

**HSE:** No comments on Public Health

**TII:** No observations to make.

**Irish Water:** No objections

### 3.2.4. Third Party Submissions

There is 1 no. third-party objection noted on the PAs file from M. Burke Associates on behalf of their client, Mr. Thomas Ryan.

The issues raised as summarised as follows:

- Mr. Ryan farms land at Ballynoe, Mungret, adjacent to the Barnakyle River.
- Surface water discharge into the Loughmore Canal passes through drains on his land and the creation of more hard surfaces the forced unnatural attenuation of surface water is causing flooding of land.
- Engineering solutions proposed have not worked to date and the proposed development will exacerbate the flooding of the third-party lands.
- The small drain through the observers' land cannot deal with the volume entering it, causing the water to back up and overflow – flooding 20 acres of land.

- Mr. Ryan has carried out works to the drains at great cost and it is requested that the PA make a decision in favour of a small farmer, to protect his livelihood.
- At the very least, a flood risk assessment should be commissioned.

Following the submission of the response to the FI request, there were no further submissions from third parties.

## 4.0 Planning History

**PA ref: 19/763:** Permission granted by Limerick City & County Council for the construction of (a) an industrial building for use as a proposed service garage, incorporating ancillary office and storage areas, located on site 'A', (b) an environmental station building located at rear of site 'A', (c) signage on façade of proposed industrial building and free standing signage to front of site 'A' and all associated site works, (d) create a proposed service road and with adjacent footpath to provide access to site 'B' at the rear of site 'A' subject to 12 conditions.

The Board will note that the permitted unit has a stated floor area of 1,121.4m<sup>2</sup>.

**PA ref: 00/2378:** Permission granted for the construction of 2 warehousing / storage units with office accommodation, car parking, turning areas, connection to existing services, landscaping, 3m high palisade fence and ancillary site works.

## 5.0 Policy and Context

### 5.1. Development Plan

#### **Limerick City & County Development Plan 2022**

- 5.1.1. The Board will note that when the PA considered the proposed development, the previous 2016 Development Plan was in place. The new Limerick Development Plan 2022-2028 is now the relevant policy document pertaining to the subject site. This Plan was adopted by the Elected Members of Limerick City & County Council on the 17<sup>th</sup> of June 2022 and the Plan came into effect on the 29<sup>th</sup> of July 2022, six weeks after the date of adoption.

The Plan is set out over 6 Volumes with Volume 1 comprising the Written Statement and Volume 2 dealing with Settlements. The remaining volumes deal with Record of Protected Structures and ACAs, Environmental Reports, Designated Sites & RMPs and accompanying strategies such as the Housing Strategy, Retail Strategy etc.

The subject site lies at the south-western area of the Limerick City and Suburbs, on lands zoned High Tech / Manufacturing Campus. This zoning is afforded to the full Raheen Business Park. It is the stated objective of this zoning 'to provide for office, research and development, high technology, regional distribution/ logistics, manufacturing and processing type employment in a high quality built and landscaped campus style environment'.

The Raheen Business Park, together with the National Technology Park and the proposed Northside Business Campus are identified as Strategic Employment Locations under the Limerick Shannon Metropolitan Area Strategic Plan (MASP). The following policy objectives are relevant:

- **Objective ECON O17 Strategic Employment Locations City and Suburbs (in Limerick), Mungret and Annacotty:** Seeks to facilitate and support the Raheen Business Park (and others) as strategic employment locations in accordance with MASP.

Having regard to the issues raised in the third-party submission, and noting that the site lies approximately 100m to the north of the nearest area identified as having a high potential for flooding by rivers and coastal flooding, I also consider the following policy objective to be relevant:

- **Objective CAF O21 Identified Flood Risk:** It is an objective of the Council to: a) Ensure that no development shall commence on the lands identified as being at flood risk adjacent to the Raheen Business Park in the townlands of Ballycummin/ Rootiagh, zoned for High Tech/ Manufacturing, until a Site-specific Flood Risk Assessment, including hydraulic model has been prepared for the lands, which demonstrates that the flood risk for the lands can be mitigated or that a less vulnerable use can be accommodated on site.

## 5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 3km to the north of the site and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077).

## 5.3. EIA Screening

5.3.1. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. Class 10 Infrastructure Projects and Class 13 Changes, Extensions, Development and Testing of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) are considered to be relevant:

- 10(a) Industrial estate development projects, where the area would exceed 15 hectares.
- 10(b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. Due to the site's location in a built-up area 10 hectares is the relevant threshold in this case.
- 13(a)(ii) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:
  - result in an increase in size greater than:
    - 25 per cent, or
    - An amount equal to 50 per cent of appropriate threshold,Whichever is greater.

5.3.2. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR, comprising the construction of an industrial building with a floor area of 1,592.73m<sup>2</sup>, on a site covering 1.213ha, all within the existing Raheen Business Park. It is therefore considered that the development does not fall within

any cited class of development in the P&D Regulations and does not require mandatory EIA.

5.3.3. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.3.4. Having regard to:

- (a) the nature and scale of the development, and
- (b) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed revised design for the industrial building in the Raheen Business Park. The issues raised reflect those made to the Planning Authority during its assessment of the proposed development and are summarised as follows:

- The impact of the development creating more hard surfaces will exacerbate flooding of Mr. Ryan's land.



- Engineering solutions proposed to attenuate water has not worked to date.
- As more development takes place, the area of the appellants land under water increases.
- Mr. Ryan has undertaken works to drains on his land at great cost.
- It is requested that the Board make a decision in favour of a small farmer and protect his livelihood.
- An independent flood risk assessment should be commissioned for the area.

## 6.2. **Planning Authority Response**

None.

## 6.3. **First Party Response to Third Party Appeal**

The first party, through their agent, submitted a response to the third-party appeal.

The issues raised are summarised as follows:

- The proposed development has not increased the hard standing area and has actually reduced same by 9% from the previous permitted development.
- The route of the surface water from the proposed site has been clearly demonstrated and will not enter the Loughmore Canal as suggested.
- The applicant has demonstrated that the design of the storm network is in compliance with the parameters in Criterion 4 of the Greater Dublin Regional Code and was conscious of possible downstream flooding. The maximum discharge is the discharge rate of QBAR or 2l/s/ha, whichever is the greater.

It is requested that the appeal be dismissed as having no valid grounds.

## 6.4. **Further Responses**

None

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Third Party Issues
3. Other Issues
4. Appropriate Assessment

### 7.1. Principle of the development

- 7.1.1. The proposed development seeks to revise the design of a permitted industrial unit within the Raheen Business Park in Limerick. The subject site lies between two existing units, and boundary fencing has been established around the site. All services to support the proposed development are in place in terms of access road, water services infrastructure and utilities. The site is located on lands zoned for a High Tech / Manufacturing Campus. This zoning is afforded to the full Raheen Business Park, and it is the stated objective of this zoning 'to provide for office, research and development, high technology, regional distribution/ logistics, manufacturing and processing type employment in a high quality built and landscaped campus style environment'.
- 7.1.2. The Board will note that there is a valid planning permission for the construction of a building which will be used as a proposed service garage, which was permitted under the previous Development Plan. Under the 2016 Plan, the lands were zoned Enterprise & Employment, to accommodate enterprise and employment related uses. As such, I am generally satisfied that the principle of the current proposed development, being a redesign of the permitted industrial building, can be considered acceptable.

## 7.2. Third Party Issues

- 7.2.1. While the third-party appeal raises concerns in terms of the proposed development, it is clear that Mr. Ryan's concerns extend beyond the subject site. The appellant raises concerns with regard to the development of the wider area, and the impact this has had on his landholding. It is submitted that the storm water for the area discharges to the Loughmore Common via a 600mm diameter pipe which has resulted in flooding of lands to the west of the site, and 20 acres of Mr. Ryan's farmland. It is submitted that engineering solutions proposed to attenuate water has not worked to date, and that the more development takes place, the area of the appellants land under water increases. It is requested that permission be refused to protect the appellants livelihood and / or that an independent flood risk assessment should be commissioned for the area.
- 7.2.2. The Board will note that the applicant has submitted details regarding the proposed management of surface water arising at the site. The proposed surface water disposal system does not include proposals to discharge through Loughmore Common. The design for the site includes SuDS elements to control stormwater, prevent flooding, remove pollutants and provide amenity areas within the site. Such measures include:
- the use of porous asphalt within the car parking areas,
  - the use of swales and conveyance channels, which will not be accessible to the public and will provide a visually attractive amenity as well as habitats for birds and other wildlife,
  - attenuation to control the rate of discharge.

In response to the third-party appeal, the applicant submitted details refuting the points made in the appeal, and in particular, the suggestion that the surface water from the site will discharge into the canal, and ultimately to the Barnakyle River via drains on the appellants' land.

- 7.2.3. I would note that the appellants land lies within an area adjacent to the Barnakyle River which has an extensive network of drains in place. This area lies approximately 3km to the west of the subject site. Having consulted the Flood Maps website, I would note that the area of the appellants land immediately adjacent to the river is

noted to be at risk of river flood events and coastal flood events, but no past flood event is noted within the immediate area or extending into the farmland. An area of the appellants land is located within the Barnakyle Drainage District under the Local Authority, and the Maigne Arterial Drainage Scheme, under the OPW. I would note that such designations do not indicate a flood hazard or flood event, with both carried out essentially to improve land for agriculture and to mitigate flooding.

7.2.4. While I would acknowledge the concerns raised by the appellant, I do not consider that a grant of planning permission in this instance will exacerbate any potential risk of flooding. I would also accept the bone fides of the storm water management proposals presented by the applicant, and I note that the route of the surface water discharge is not as indicated by the appellant.

7.2.5. Overall, and having regard to the planning history of the subject site, I am satisfied that the proposed revised design of the industrial building at this location within the Raheen Business Park is acceptable and would accord with the proper planning and sustainable development of the area.

### 7.3. **Other Issues**

#### 7.3.1. **Visual Impacts**

Having regard to the location of the subject development site, together with the information presented with the application, I am generally satisfied that the proposed development will not give rise to any significant visual impacts within the Business Park.

#### 7.3.2. **Roads & Traffic**

Following a request for further information, the layout of the site was updated to show crossing points and sightlines. These revisions resulted in the amending of the site boundary, which was advertised in the paper. The revision provides for separate access routes for employees and trucks, with separate public and private parking areas proposed. I am satisfied that there are no issues arising in this regard. Bike storage facilities are also proposed as part of the development.

### 7.3.3. **Services**

The proposed development will connect to the existing public water services which are located within the Business Park. I note no objection from Irish Water in this regard.

### 7.3.4. **Development Contribution**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

### 7.3.5. **Conditions of Permission**

The Board will note that the Planning Authority have included conditions, conditions 2 and 3, which tie the current proposed development to the previous grant of planning permission, PA reference 19/763 refers. Condition 2 requires compliance with the terms of the governing permission, except where departure from the terms is authorised by the most recent permission and Condition 3 indicates that the permission will cease to have effect on the date on which the parent permission expires. The expiry date is the 18<sup>th</sup> of March 2025.

While I would fully agree with the principle of these conditions, I would note the time delay in the considering of this current appeal and note that there will be a period of two and a half years remaining for the construction of the development, should the Board decide to grant permission for the redesign of the building. As such, I would consider it appropriate to include a condition tying the proposed revised design of the building to the original decision, but I do not consider it necessary to include a reduced expiry date (Condition 3).

## 7.4. **Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 3km to the north of the site and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077). There is no obvious hydrological connection between the site and this Natura 2000 site. I am therefore satisfied that the proposed development would

be unlikely to have any significant effect on the Conservation Objectives of this or any other European site in the wider area.

Having regard to the nature, scale and location of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal 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. It is recommended that the proposed revised design of an industrial building be granted for the following stated reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the planning history and the zoning objective of the subject site, its location within the existing Raheen Business Park 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 acceptable 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 as amended by the further plans and particulars submitted on the 13<sup>th</sup> day of July 2021, 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. All relevant conditions attached to the previous grant of planning permission, Planning Authority Reference 19/763, shall be strictly adhered, except where departure from said conditions is authorised by this permission.

**Reason:** In the interest of clarity, proper planning and orderly development.

3. Prior to the commencement of any development on the site, the developer shall submit for the written agreement of the Planning Authority, full details of the surface water disposal system plan, in line with the Limerick City & County Councils Operations & Maintenance Section.

**Reason:** In the interest of proper planning and orderly development.

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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A. Considine  
Planning Inspector  
28<sup>th</sup> September 2022