



An
Bord
Pleanála

Inspector's Report ABP-311373-21

Development	Light industrial unit
Location	IDA Industrial Estate, Kilmallock Road, Rathgoggan Middle, Charleville, County Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	21/5295
Applicant(s)	Charleville Hire & Platform Ltd. t/a CPH Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Ruth Ball
Date of Site Inspection	30 th November, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The 0.94 hectare site is located within the IDA industrial estate in Charleville, which is sited to the north of the Kilmallock Road to the east of the town. The site is at the northern end of the estate cul-de-sac, behind an existing industrial building and east of a local road. It consists of relatively flat grassland enclosed by hedgerow along its north, western and eastern sides. There is an open drain along its eastern boundary. There is a house, farm complex and agricultural lands to the north. Other industrial units are located immediately south of the site.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a light industrial building for a plant hire business. It would include a two-storey section to the front which would consist of ancillary plant and tool hire shop and office space on the ground floor and storage/office space at first floor level. The gross floor area of the proposed development is stated to be 655.5 square metres. The development would be served by a mains water supply and public sewer.
- 2.2. Details submitted with the application included an Infrastructure Report, a Flood Risk Assessment, and a letter from the landowner permitting the making of the application.

3.0 Planning Authority Decision

3.1. Decision

On 17th August, 2021, Cork County Council decided to grant permission for the proposed development subject to 18 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the industrial estate's planning history, the reports received and the third party submission. It was considered that clarity was required on the retail

use, on the intent for the land area at the northern section of the site, on parking and landscaping.

3.2.2. Other Technical Reports

The Water Services Section had no issue with the proposal provided a wayleave is maintained and the sewer is not built over.

The Environment Section submitted there were no significant environmental issues and had no objection to the proposal subject to the attachment of four conditions.

The Area Engineer requested further information relating to parking provisions.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

3.4. Third Party Observations

An objection was received from Ruth Ball relating to a range of issues including retail use in the industrial estate, the use of lands behind the proposed building, traffic impact, parking, noise and landscaping.

- 3.5. A request for further information was issued on 2nd July, 2021 and a response was received on 22nd July, 2021. A revised ground floor plan was submitted and it was confirmed that the northern area of the site would be for future expansion. In the interim, some of the ground would be used for storage of larger equipment which may be 'off-hire' during holidays or quieter times.

- 3.6. The reports to the planning authority were then as follows:

The Area Engineer was satisfied with the proposal and recommended approval subject to conditions.

The Senior Executive Planner was satisfied with the further information and recommended a grant of permission subject to conditions.

4.0 Planning History

I note the following from the Planner's report:

P.A. 80/4310

Outline permission was granted for an IDA industrial development.

P.A. 97/3002

Permission was granted for an extension to the existing access road and services on the industrial estate.

5.0 Policy Context

5.1. Fermoy Municipal District Local Area Plan

Charleville is designated a 'Main Town' in the Plan.

Zoning

The site is zoned 'Existing Built Up Area'.

Infrastructure

Wastewater Services

Upgrading of the Charleville WWTP is required to accommodate the proposed development in Charleville. There are assimilative capacity issues in relation to the waters receiving the treated effluent from Charleville WWTP.

Flooding

The Plan indicates that the site is located in an 'Area Susceptible to Flooding: Zone A'. The Plan states:

Charleville has been identified as being at risk of flooding. The areas at risk occur along the path of the Glen River through the town and are illustrated on the settlement map. Parts of the built up area are affected comprising lands at Smiths Road and lands along and to the north of regional road R515. Government Guidelines require, and it is an objective of this plan, that future development is avoided in areas at risk of flooding.

5.2. EIA Screening

Having regard to the nature, scale and location of the proposed development, 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 appellant resides west of the site. The grounds of the appeal may be synthesised as follows:

- The further information brought a newly introduced outdoor storage area, extending well beyond the area originally to be hardcored, more than tripling the capacity for outdoor storage of machinery and no provisions for noise amelioration.
- The proposal should be refused for the lack of transparency and breach of due process. The public were informed by notices with the application. The further information submission introduced an unsolicited addition which tripled the hardstanding area for storage. This was a material change to the initial application and there was no opportunity to file any submissions on it.
- If it is decided to grant permission, the following should be taken into account:
 - Amend Conditions 1 and 2 so as to exclude the revised plans and particulars submitted as further information in so far as they purport to introduce an extended hardstanding area.
 - Include conditions prohibiting storage outside the warehouse, repair and maintenance activities to only take place inside the warehouse, noise amelioration in the form of earth bunds and landscaping, regulation of site access and activity hours, prohibition of emanation of odour and dust, and respecting the prohibition on retail use and road safety.

6.2. Applicant Response

The applicant's response to the appeal may be summarised as follows:

- There are 90 residential properties within a 200m radius of CPH's yard closer to the town centre and there has never been an issue with neighbours regarding noise or dust. The appellant's residence is some 194m from the proposed workshop. It is unlikely that the activities on the new site will be any different from their current location.
- The site is zoned for industrial use and is well suited for the unit planned. The main perimeter boundary consists of a well-established hedgerow and the site is at the rear of the estate and well hidden by existing buildings. CPH would not be storing raw materials used for any production processes and, where practical, any machinery/plant would be stored inside. It is not economically feasible to store everything indoors. The applicant's current site overflows to external space and the proposal would provide a much more usable space indoors.
- The Council has included a condition for footpath upgrades which will greatly improve connectivity to the town centre. Sight distances at the main entrance to the estate are in compliance with the requirements of the local authority and has been in constant use since the 1980s. There is no road safety issue with the provision of the additional light industrial building.

6.3. Planning Authority Response

The planning authority submitted that all relevant issues had been covered in its technical reports and had no further comment to make.

7.0 Assessment

- 7.1. The proposal comprises a development that is of a light industrial nature, providing for plant and tool hire, an associated customer service area, ancillary office space and a warehouse / mechanic area. This proposed development would be sited within an established industrial estate, located to the rear of the estate lands. This is a serviced site with established vehicular access serving the estate which would be

utilised by the proposed development. This is the appropriate location for development of this nature.

- 7.2. I acknowledge how the application proceeded, with the initial application focusing development in the southern section of the site and the further information response then extending the external hardcore area northwards for a part of the northern section of the site. I note that the applicant was not requested to and did not submit new public notices advertising the proposed alterations. It is my submission to the Board that the modifications did not necessitate further notice, having regard to the clear understanding of the nature of the development being proposed, i.e. a plant hire operation, the proposed additional hardcore area being wholly within the confines of the site's defined development boundary, and the confined area to which it relates adjoining the northern side of the proposed building. I further acknowledge that the appellant made a detailed submission to the planning authority and also made an appeal to the Board which has allowed the issues of concern to be addressed.
- 7.3. With regard to the appellant's concerns relating to the functioning of the development and its potential impact on residents and the wider community, I must again note that this development would be sited within an established serviced industrial estate. This is the appropriate location for such development. I acknowledge that a plant hire operation frequently requires external storage areas to accommodate larger plant and excess plant when not required. I anticipate that the applicant's operation could potentially be of a similar nature. I note that it is intended that only part of the lands to the north of the building is to be provided as an area for overflow plant and tool storage. I do not foresee the outdoor storage area itself and the movement of plant into and out of this section of the industrial estate causing any particular concerns in terms of noise, odours, nuisance, traffic impact, etc. for an industrial estate or for the residents living in the vicinity of this established industrial estate.
- 7.4. I note the scale of the building proposed to accommodate the storage and display of tools and plant and I particularly acknowledge the provision of a 'mechanic area' within the confines of the proposed building. It is, thus, understood that repairs, maintenance of tools and machinery, etc. are intended to take place within the building. The Board will also note that the access to this section of the building would be to the rear and on the east side of the proposed building and facing in the direction of

a local road a short distance to the east. I consider that the layout and provision of this service should significantly address the residents further west of this location, including the appellant. Having regard to the appellant's concerns about potential external repair / maintenance works outside of the building, I submit that a planning condition restricting such activities to within the confines of the building could reasonably be attached with any grant of planning permission.

- 7.5. I note the applicant's further information submission on the issue of retail use. It has been clarified that the original area defined as 'shop' would be the reception area to provide for customer service. I do not consider that there is any particular concern that the proposed development is intended to provide a retail outlet and such a use can be excluded by way of an appropriate planning condition with any grant of planning permission.
- 7.6. I acknowledge the issues relating to traffic that have arisen. The proposed development would utilise an established industrial estate road with access onto the Kilmallock Road on the edge of the town of Charleville. I consider that the established access and internal road is adequate to accommodate a development of this nature without undermining the carrying capacity of the regional road or causing any particular hazard or congestion on the local road network.
- 7.7. Regarding the other issues raised by the appellant, I consider that it would be appropriate to require the submission of a detailed landscaping scheme in order to minimise noise emanating from the site and to control the hours of operation of the development in order to reduce potential night-time impacts from plant movement into and off the site. Appropriate planning conditions could reasonably address these issues. Having regard to the confinement of repair and maintenance works within the building, I do not consider that any specific noise or odour limit requirements are necessary.
- 7.8. Finally, I observe that the Local Area Plan indicates that the site is located in an 'Area Susceptible to Flooding: Zone A'. The applicant has submitted a Flood Risk Assessment which has demonstrated that the site is in Flood Zone C and it has been submitted that the site has not flooded previously and is at a low risk of flooding in the future. I note that the site forms part of lands within a serviced industrial estate and I particularly note that no concerns have been raised on this issue by the

planning authority's Area Engineer, Water Services or Environment Sections. I consider that it is reasonable to conclude that the proposed development would not likely be susceptible to flooding and that it would not pose a significant flood risk to adjoining lands.

Appropriate Assessment

The site of the proposed development is an established serviced industrial estate within the town of Charleville. It is several kilometres north of the nearest European site which is the Blackwater River (Cork/Waterford) SAC. Having regard to the nature, scale, and the location of the proposed development within an established industrial estate, 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 any 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 siting of the proposed development within an established industrial estate, and the layout and intended uses associated with the proposed plant hire development, it is considered that the proposed development would not adversely impact on the residential amenities of properties in the area, would not endanger public safety by reason of traffic hazard and would otherwise be in accordance with the provisions of the current Cork County Development Plan and the Fermoy Municipal District Local Area Plan. 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 to the planning authority on the 22nd 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. The proposed building shall be used solely for purposes relating to plant and tool hire and associated repair and maintenance and shall not be used for retail use without the prior grant of planning permission.

Reason: In the interest of clarity and to protect the industrial nature of the lands.

3. All maintenance and repair of plant and tools shall take place within the confines of the building and no such activities shall take place within the external storage areas.

Reason: To protect the amenities of residents in the area.

4. The plant/tool hire and ancillary activities shall only operate between 0700 hours and 2000 hours, Monday to Friday and between 0700 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.

Reason: In order to protect the residential amenities of property in the vicinity.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include a plan to scale of not less than 1:500 showing perimeter embankment provisions, screen and roadside planting, and hard landscaping works, as well as a timescale for implementation.

Reason: In the interest of residential and visual amenity.

6. Water supply and drainage arrangements, including 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

7. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. 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.

9. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of pavement works proposed to be carried out by the local authority. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Kevin Moore
Senior Planning Inspector

9th December 2021