



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314456-22

<b>Development</b>	The subdivision of the existing single storey commercial building into 3 units
<b>Location</b>	Maydenhayes Road, Donacarney Little, Mornington, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	22572
<b>Applicant(s)</b>	Rybo Partnership.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Residents of Maydenhayes & Mornington Park. Alice and Christopher Flynn.
<b>Observer(s)</b>	Cllr Stephen McKee.
<b>Date of Site Inspection</b>	30 <sup>th</sup> March 2023.
<b>Inspector</b>	Elaine Sullivan

# Contents

1.0 Site Location and Description.....	3
2.0 Proposed Development.....	3
3.0 Planning Authority Decision .....	3
3.1. Decision.....	3
3.2. Planning Authority Reports.....	4
3.3. Prescribed Bodies.....	5
3.4. Third Party Observations.....	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. National Policy .....	6
5.2. Development Plan.....	6
5.3. Natural Heritage Designations.....	7
5.4. EIA Screening .....	8
6.0 The Appeal.....	8
6.1. Grounds of Appeal .....	8
6.2. Applicant Response .....	9
6.3. Planning Authority Response .....	9
6.4. Observations .....	9
7.0 Assessment.....	10
8.0 Recommendation.....	13
9.0 Reasons and Considerations .....	13
10.0 Conditions .....	14

## **1.0 Site Location and Description**

1.1. The subject site is in north county Meath, approximately 6km to the south-west of Drogheda and within the settlement of Donacarney. The site has a stated area of 0.79ha and sits within a residential development with houses to the north, west and south. No. 1 Maydenhayes Road and No. 15 Maydenhayes Lane directly adjoin the site to the west and to the north is the access road and No's 1 – 13 Maydenhayes Lane. An area of green space also adjoins the site to the north. To the south, the site is bounded by the main access road to the estate, Maydenhayes Road, with the houses on Johnston Villas on the opposite side of the road. Access to the site is from Maydenhayes Road but is currently blocked off. A second access is proposed from Maydenhayes Lane to the north. The site currently comprises a single-storey, commercial building with 21 no. parking spaces and a loading bay to the front.

## **2.0 Proposed Development**

2.1. Planning permission is sought for the subdivision of the existing single storey commercial building into 3 units and the provision of a 7-space car park to the rear of the building with a new entrance off Maydenhayes Lane for staff parking only. The units would comprise the following,

- Unit 1 – Retail – 128 sqm
- Unit 2 – Retail – 132 sqm
- Unit 3 – Café including takeaway – 167 sqm.

2.2. Planning permission is also sought to retain a new external escape door and the omission of 4 no. windows on the rear elevation.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Planning permission was granted by the Planning Authority, (PA), subject to 8 conditions which are mainly standard in nature. Condition 2 relates to the management of the new car park and the provision of car and cycle parking spaces.

Condition 3 restricts the use of the units to those outlined in the application.

Condition 4 sets out the opening hours for the units.

### **3.2. Planning Authority Reports**

3.2.1. The decision of the PA was informed by two reports which were prepared during the assessment of the proposed development.

3.2.2. The report of the Planning Officer, (PO), dated the 17<sup>th</sup> day of June 2022 requested further information with regard to 4 points and the report of the 3<sup>rd</sup> day of August 2022 assessed the response submitted by the applicant.

The report of the PO dated the 17<sup>th</sup> June includes the following:

- The development is acceptable within the zoning objective for the site which is, 'A1 – Existing Residential'.
- The proposed retail units and café are acceptable, but the drawings submitted lack detail regarding the internal layouts.
- Further information is requested regarding the takeaway element of the café. A fast-food takeaway shall not be considered at a residential location. Details of opening hours are also requested.
- Justification for two entrances to the development is requested.

The report of the PO dated the 3<sup>rd</sup> of August reviewed the information submitted by the applicant on the 21<sup>st</sup> of July 2022 and recommended that planning permission be granted subject to 8 conditions.

### **3.2.3. Other Technical Reports**

- Transportation Department – No objection subject to conditions.
- Public Lighting – No objection.
- Water Services – No objection subject to conditions.
- Fire Service Department – A Fire Cert is required for the development.

### 3.3. Prescribed Bodies

- Irish Water – No objection.

### 3.4. Third Party Observations

Fourteen third party observations were received by the PA within the public consultation stage. The issue raised include the following,

- A takeaway is unsuitable for the residential area,
- It would encourage anti-social behaviour,
- Increased traffic,
- Traffic hazard from deliveries and parking,
- Increased litter,
- Suitability of a back entrance to a business on a cul-de-sac,
- Increased noise and nuisance,
- Late opening hours would cause disturbance,
- Traffic hazard from parking area,
- Overall management / security of the site.

## 4.0 Planning History

The subject site forms part of a wider residential development which has an extensive planning history. The most relevant planning files are outlined below.

- 4.1. **LB180389** – Planning permission granted by the PA on the 12th day of August 2018 for the development of a 433m<sup>2</sup> single storey commercial building for retail and cafe use with 17 off-street car parking spaces (including 1 No. accessible space and 1 No. loading/delivery space) complete with fenced and screened external spaces, illuminated signage, retractable awnings, terrace to accommodate external seating, planting and associated site works.

- 4.2. **PL.17.243610, (PA Ref. SA/140355)** – Planning permission granted by the Board on the 14<sup>th</sup> day of November 2014 for the construction of 255 houses and associated site works including the diversion and culverting of the existing watercourse and all drainage works.
- 4.3. **PL.17.243541, (PA Ref. LA/140305)** – Planning permission granted by the Board on the 14<sup>th</sup> day of November 2014 to amend PL.17.220138, (PA Ref. SA60384), by changing house types and to extend PA. Ref. SA/130120, which had previously extended PL.17.220138, (PA Ref. SA60384).
- 4.4. **PL.17.220138, (PA Ref. SA/60384)** – Planning permission granted by the Board on the 5<sup>th</sup> day of August 2008 for development of the site to include 713 dwellings, creche, community centre, retail/commercial neighbourhood centre, 1,102 car parking spaces and associated development works.

## 5.0 Policy Context

### 5.1. National Policy

#### 5.1.1. Project Ireland 2040 - National Planning Framework

- The NPF 2040 was adopted on the 29<sup>th</sup> of 88May 2018 with the overarching policy objective to renew and develop existing settlements rather than the continual sprawl of cities and towns out into the countryside.

### 5.2. Development Plan

5.2.1. The site is located within the administrative boundary of Meath County Council. The operative Development Plan for the area is the Meath County Development Plan, (CDP), 2021-2027, which came into effect on the 3<sup>rd</sup> of November 2021.

5.2.2. The following sections of the MCDP 2021-2027 are of relevance to the appeal,

- The subject site is located within the settlement of Donacarney/Mornington and is zoned objective 'A1 – Existing Residential', (Sheet No. 5.1(a) Land Use Zoning).

- Under the A1 zoning objective, the following uses are listed as ‘Permitted’ - Residential, Sheltered Housing, B & B / Guest House, Community Facility / Centre, Home Based Economic Activities, Utilities, and the following are listed as ‘Open for Consideration’ - Bring Banks, Convenience Outlet, Childcare Facility, Halting Site, Healthcare Practitioner, Leisure / Recreation / Sports Facilities, Bar, Retirement Home / Residential Institution / Retirement Village, and Veterinary Surgery.
- The conurbation of Bettystown / Laytown / Mornington East / Donacarney / Mornington is designated as a Self-Sustaining Town in the Settlement Hierarchy for the County.
- Self-Sustaining towns are described as ‘Towns with high levels of population growth and a weak employment base which are reliant on other areas for employment and/or services and which require targeted ‘catch up’ investment to become more self-sustaining’. Development within these settlements will be focused on local growth and appropriately sized employment and enterprise.

**Section 11 - Development Management Standards**

11.6.3 – Shop Fronts

11.6.4 – Local/Neighbourhood Shopping Facilities

Table 11.2 – Car Parking

Land Use	Car Spaces
Food retail	1 space per 20 sq.m gross floor area. Where gfa exceeds 1,000 sq.m, 1 space epr 14 sq.m gfa
Non-food retail	1 per 20sq.m gfa.
Restaurants	1 per 5sq.m dining area.

**5.3. Natural Heritage Designations**

5.3.1. No designations apply to the subject site.

#### 5.4. **EIA Screening**

5.5. The proposed development is for the subdivision of an existing single storey commercial building and the provision of seven car parking spaces within an urban development. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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**

Two third party appeals were lodged and are summarised below.

Alice and Christopher Flynn -

- There is no justification for the staff car park in a planning, commercial or engineering basis. There appears to be sufficient space to allow vehicular access to the rear from the front entrance.
- The proposal to provide staff parking down a residential lane is not in accordance with national policy as communicated to Local Authorities in the Design Manual for Urban Roads and Streets, (DMURS 2020).
- The residential street and green area to the north east of the site is well used by children in the area.
- The creation of a right-turn into the development from Maydenhayes Lane will cause a traffic hazard.
- A Road Safety Audit was not carried out for the development and there will be an increased risk to vulnerable road users from traffic.
- There will be implications regarding refuse collection and emergency access.
- There is a concern regarding opening hours and that the café element will be a takeaway.



Siobhán McElearney on behalf of residents of Maydenhayes and Mornington Park -

- The retail use of the units is supported. There is a concern regarding the potential use of one of the units as a takeaway which could lead to disturbance and nuisance.
- The residents request that a restriction on the use of the units as a takeaway is attached to any grant of permission.
- The creation of a new entrance to the rear of the building onto Maydenhayes Lane is not supported.
- It would create additional traffic on a cul-de-sac and could lead to a traffic hazard. There could also be disturbance from delivery trucks and commercial vehicles.
- There is a concern that the proposed development could lead to anti-social behaviour if not properly managed.

## 6.2. Applicant Response

- No response received.

## 6.3. Planning Authority Response

A response was received from the PA on the 21<sup>st</sup> of September 2022 and includes the following,

- The PA is satisfied that all matters raised in the grounds of appeal were considered in the course of its assessment as detailed by the reports of the Planning Officer dated the 17<sup>th</sup> of June 2022 and the 3<sup>rd</sup> of August 2022.

## 6.4. Observations

An observation was received from Cllr. Stephen McKee and includes the following,

- Residents are supportive of the units being used as retail space but have legitimate concerns regarding the proposed use of one of the units as a takeaway as it could lead to disturbance and nuisance.

- It is requested that normal business hours be applied to any grant of permission.
- Residents are opposed to the creation of a new back-entrance to the building. This new entrance would lead to additional traffic on the cul-de-sac and would cause some safety concerns for residents of Maydenhayes Lane.
- Many children play on the lane and their safety would be compromised by additional traffic.
- Residents request that the building and site be properly secure to prevent anti-social behaviour.

## 7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal can be addressed under the following headings:

- Principle of Development
- Residential Amenity
- Traffic & Access
- Appropriate Assessment

### 7.2. **Principle of Development**

7.2.1. The proposed development is located in an existing housing development on a site that is zoned objective A1 – Existing Residential. The application is for alterations to a development permitted under a previous application, (PA Ref. LB180389). The alterations relate to the retention of a new entrance to the rear of the building, the omission of four windows on the rear elevation and the subdivision of a permitted retail/café unit into two separate retail units and one café unit. An additional 11 parking spaces are also proposed, (7 to the rear of the building and 4 to the front), as well as a second vehicular access onto the residential cul-de-sac of Maydenhayes

Lane. The elements proposed for retention are minor in nature and are the proposed retail and café uses are in accordance with the zoning objective for the site and are the same uses as previously permitted. I am satisfied that the principle of the development is acceptable and can be considered against the policies and objectives of the Meath County Development Plan, (MCDP).

### **7.3. Residential Amenity**

- 7.3.1. The grounds of appeal raise concerns regarding the impact of the proposal on the existing residential amenity of adjoining and nearby houses in terms of nuisance and safety. Residents are concerned about the use of the café unit as a takeaway, as well as the potential for the development to attract anti-social behaviour in the evenings.
- 7.3.2. This issue was raised by the PA and further information was requested from the applicant regarding the proposed use of the café unit. In their submission dated the 19<sup>th</sup> of July 2022, the applicant confirmed that they are not seeking permission for a traditional take-away but rather to cater for food to be consumed off-site. At the time of the submission the applicant was in talks with a potential tenant to open a pizzeria which would accommodate eat-in and take-out business. The applicant states that they would be happy to have a condition attached restricting opening hours to 10pm and/or to have the use restricted to a café/restaurant with ancillary take-away. This proposal was accepted by the PA and the decision to grant permission reflected the submission/proposals in the planning conditions attached.
- 7.3.3. I would agree with third parties and with the PA that a traditional chip-shop or take-away would not be a suitable use within the residential development. However, I am satisfied that a café / restaurant with a take-away element would be acceptable for the location, subject to conditions that would regulate the use and help to protect residential amenity. A planning condition restricting the use of Unit 3 as a café / restaurant with ancillary take-away would allow for a degree of flexibility for the end user and would be reasonable in this instance. I would agree with the decision of the PA that opening hours should be restricted and, in my opinion, a closing time of 10pm would be appropriate. Should the Board be minded to grant permission for the development, I recommend that planning conditions to restrict the use and opening hours of the unit be attached to the permission.

7.3.4. I note that the original permission indicated that there would be a pedestrian connection through the site along the northern boundary and between Maydenhayes Road and Maydenhayes Lane. The revised proposal has removed this connection and Drawing No. FI-05 indicates that the side access passageways to the rear of the building will be gated. This secured access to the rear of the site will inhibit anti-social behaviour as there will be no public access.

#### **7.4. Traffic & Access**

- 7.4.1. Vehicular access from the site onto Maydenhayes Lane was raised as an issue in the grounds of appeal and by third parties. The appellant was concerned that additional traffic from the development would result in a hazard for residents and pedestrians, given its residential character and its proximity to the amenity space to the rear of the site.
- 7.4.2. The applicant states that the additional seven car parking spaces to the rear are required for staff and will be retained for their use. This would allow for the dedicated use of the parking spaces to the front for customers, which is reasonable approach given the location of the site in a residential development with restricted on-street parking. On the occasion of the site visit there were some free visitor car parking spaces to the front of Johnston Villas but there was little space for additional parking along Maydenhayes Road. If sufficient parking was not provided within the site, the overspill could result in double parking on the internal roads and could cause a nuisance to neighbouring residents.
- 7.4.3. Table 11.2 of the MCDP sets out the parking standards for the development. According to the table the retail element would allow for 13 car parking spaces, (1 per 20m<sup>2</sup> GFA). A quantum is not given for a café or takeaway use, but a restaurant could provide is 1 space per 5m<sup>2</sup> dining area. Based on the floor plan layout provided in Drawing No. FI-06 the dining area would be approximately 88m<sup>2</sup> which could allow for 17 car parking spaces. This seems excessive for the location. I am satisfied that the quantum of car parking spaces is sufficient to cater for the proposed development and I have no objection to the use of the car parking spaces to the rear for staff only. However, I agree with third parties that commercial vehicles could cause a hazard on Maydenhayes Lane if they were allowed to use the rear entrance. This can be addressed through a planning condition that restricts all

commercial vehicles from using the rear entrance and requires all deliveries to take place using the loading bay to the front.

- 7.4.4. I am satisfied that an additional seven vehicles using the local access would not significantly contribute to traffic levels along the road and would not be out of character with the existing traffic movements in the development. All of the houses on the laneway have off street car parking to the front for two cars and on the occasion of the site visit, a car was parked on the public footpath resulting in an obstruction for pedestrians. Although the new access would be positioned on a bend in the road there are clear sightlines in each direction and any cars existing the site would have a clear view of the surrounding roads. Therefore, I am satisfied that that the additional parking spaces and access will not result in a traffic hazard. I note that the Transportation Department of the PA had no objection to the proposal.

## 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 **Recommendation**

- 8.1. I recommend that planning permission is granted for the following reason and subject to the following conditions.

## 9.0 **Reasons and Considerations**

- 9.1. Having regard to the nature and scale of the proposed development, which is located within a designated settlement and on a site with zoning objective A1 - Existing Residential, it is considered that, the proposal would be in accordance with the policies and objectives of the Meath County Development Plan 2021-2027, and subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and

would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 4<sup>th</sup> day of May 2022 and as amended by the further plans and particulars submitted on the 21<sup>st</sup> day of July 2022, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to retail use and café with ancillary take away (as specified in the lodged documentation, i.e. Units 1 &amp; 2 – Retail and Unit 3 – Café with ancillary take-away use), unless otherwise authorised by a prior grant of planning permission.</p> <p><b>Reason:</b> To protect the amenities of properties in the vicinity.</p>
3.	<p>The hours of operation for each unit shall be restricted to 7am to 10pm each day.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
4.	<p>Parking for the development shall be provided in accordance with the parking layout submitted to the PA on the 21<sup>st</sup> day of July 2022 and shown on Drawing No. FI-05. The parking arrangements and traffic management for the site shall include the following,</p>

	<p>a. Cycle parking spaces shall be provided within the site in accordance with the requirements of the Planning Authority.</p> <p>b. The use of the rear car park shall be restricted to staff only and shall not be open to the general public.</p> <p>c. The car park to the rear shall not be used for deliveries or commercial vehicles. All deliveries shall take place using the dedicated loading bay to the front of the building.</p> <p><b>Reason:</b> In the interest of residential amenity and pedestrian and traffic safety.</p>
5.	<p>a. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.</p> <p>b. No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>c. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the visual amenities of the area.</p>
6.	<p>The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity.</p>

7.	The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.  <b>Reason:</b> To safeguard the residential amenities of adjacent dwellings.
----	--

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Elaine Sullivan  
Planning Inspector

3<sup>rd</sup> day of April 2023