



An
Bord
Pleanála

Inspector's Report

ABP-315662-23

Development	Retention for warehouse and associated site works.
Location	Loughtally, Marlfield, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2260440
Applicant(s)	Barne Accessories Limited
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Barne Accessories Limited
Observer(s)	Andrew & Maria McCoy Noel Kennedy Thomas Halley Jim Hayde
Date of Site Inspection	15 th August 2023
Inspector	Catherine Dillon

1.0 Site Location and Description

- 1.1. The appeal site is located within the townland of Loughtally, Marlfield, which is c.4.8kms to the west of Clonmel and c.8km to the east of Cahir. Access to the site is via a partially unmade laneway c.500m in length which rises above the main road and serves a farmyard, a number of agricultural buildings, and 5 dwelling houses.
- 1.2. The subject site is at the south western end of the laneway and is occupied by a shed with a mezzanine floor with a hardstanding area to the frontage for vehicles to manoeuvre. This building is currently being used for the storage of tyres associated with a larger commercial tyre warehouse business at the entrance to the laneway and west of the junction of the L-32121 and the L-3282 (Patrickswell Road).
- 1.3. The surrounding area is predominantly agricultural and rural in character with a number of houses along the L-3282 to the east of the entrance onto the laneway. The subject site has a stated area of 0.590 hectares.

2.0 Proposed Development

- 2.1. The development the subject of this appeal is for the retention of the demolition of an agricultural building, and retention of a commercial warehouse as constructed, concrete hardstand areas and all associated site development works.
- 2.2. The commercial warehouse has a depth of between 45.7m and 60m, a width of between 18.3m and 32m with a small loading bay on the western elevation. The building has an overall height of 7.9m to the ridge and is finished in green profiled metal cladding. A sliding metal door is on the northern elevation to enable vehicles to reverse into the building. The structure has a stated floor area of 1730m².
- 2.3. The building is indicated as being used for storage purposes on the layout plans and a covering letter submitted with the planning application outlines the Applicant requires the additional storage to remain competitive in the tyre supply business. The site is leased from a family member who operates the wider landholding as a farm and forestry enterprise and has existing agricultural sheds immediately adjoining the commercial warehouse building.
- 2.4. The rationale for the development as submitted with the planning application is the nature of the tyre storage business has changed due to Brexit and an increase in

second-hand car imports from the UK from around 2018. Both increased the demand for bulk purchasing in Ireland, either through the UK or from Europe. The structure the subject of the planning application was constructed to meet this demand.

3.0 Planning Authority Decision

3.1. Decision

3.2. On 12th January 2023, Tipperary County Council refused planning permission to Barne Accessories Ltd., for a demolished agricultural building, as constructed commercial warehouse, concrete hardstanding areas and all associated site development works, on the following grounds:

1. Policy 8-9 of the Tipperary County Development Plan 2022 seeks to support the continued operation and expansion of existing commercial/industrial enterprises where they exist as non-conforming but long-established uses, provided such does not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard.

Having regard to the scale of the expansion to be retained, which would result in a significant increase in floor area, its location at a remove from the established commercial enterprise, its industrial form and scale and capacity constraints in the local road network, it is considered that the works to be retained would adversely impact upon the character of the receiving rural environment, would be contrary to the provision of Policy 8-9 of the Tipperary County Development Plan 2022 and to the proper planning and sustainable development of the area.

2. Having regard to the increased level of Heavy Goods Vehicle movements associated with the development proposed, the limited capacity of the local road network to accommodate the additional HGV traffic by reason of its narrow width and the potential for the increased HGV activity on the receiving local road network to give rise to accidents and incidents, it is considered that the development proposed and the associated HGV traffic movements would

endanger public safety by reason of being a traffic hazard or being an obstruction to road users.

3.3. Planning Authority Reports

3.3.1. Planning Report

The Planning report notes the proposal is for the retention of a substantial warehousing and distribution unit associated with a long-established commercial development in an unserviced rural area of the county. The current business has grown since 2004, and although the County Development Plan policy facilitates small scale enterprise development outside of settlements, the proposed development would result in a 48% increase in the overall floor space area of the commercial enterprise, served by Heavy Goods Vehicle movements and accessed by local roads. The report concludes the development is 380m away from the existing associated enterprise, and given the floorspace of 1,730m², and existing road network the development would be more suitably located on zoned lands in either Clonmell or Cahir and would undermine the rural character of the area.

3.3.2. Other Technical Reports

Senior Executive Engineer/District Engineer: Report dated the 31st August 2022. This report notes the Council are currently experiencing traffic problems along the Loughtally Road, in that artic and rigid body trucks are driving this road in both directions and due to the geometry of the road two trucks cannot pass each other, resulting in one or other truck having to reverse back for quite a distance before the problem is resolved. The engineer recommended a condition be attached requiring vehicles exiting the facility turn west for Garrytemple, and not east for Loughtally/Patrickswell.

On 6th January 2023 a second District Engineer report was prepared. This report raised significant concerns in respect of the potential for the proposal as presented to increase HGV activity on the L-3282, which could result in subsequent accidents and incidents. The report also notes that the application will also result in HGV activity on the L-32121, which is not suitable for the additional level of HGV activity proposed.

Irish Water: No report

Water Services: No report

Environment: No report

3.4. **Prescribed Bodies**

None

3.5. **Third Party Observations**

3.5.1. Four submissions were received objecting to the application on the following grounds:

- The local road network and the road network in the wider area is inadequate to cater for the additional traffic demands arising from the development.
- There have been accidents between cars and lorries on the local road network.
- The facility is being used as a distribution centre and gives rise to significant volumes of additional traffic.
- A rural area is not an appropriate location for such a large industrial development.
- The depot is a fire hazard.

3.5.2. One letter was submitted with the planning application from a resident along the cul de sac serving the development, confirming no objections to the planning application.

4.0 **Planning History**

4.1. There is no planning history associated with the subject site.

4.2. Of relevance is the planning history on the site of the Applicant's main operation to the north east of the appeal site at the entrance to the laneway which is summarised below:

4.3. **P.A. Ref 22/17:** Planning permission was granted in March 2022, for retention of (a) the 8 no. storage containers and (b) the rear extension to the storage warehouse

and permission to increase the yard area and revised boundary treatment including all associated site works. The application form states the floor area of all the structures to be retained was 278m².

The details provided with this application stated the following:

- 9 employees.
- Approx. 9 vans going out each day to undertake deliveries.
- Approx. 6-7 articulated lorry deliveries each week.
- 28 car parking spaces were proposed.
- Hours of operation 7.30-5.30. Mon – Fri.
- The business was for the storage and distribution of tyres.

4.4. **P.A. Ref 16/600513:** Planning permission was granted in July 2016, for the extension to the side of the existing commercial warehouse involving a further 999m² of storage (this entailed the demolition of the existing side extension) and all associated site development works. The small side extension granted under application 09/49 was demolished to allow for the larger extension.

The details provided with this application stated the following:

- No increase in staff numbers.
- 5 vans going out each day to undertake deliveries.
- 5 articulated lorry deliveries per week.
- 28 car parking spaces.

4.5. **P.A. Ref 09/49:** Planning permission was granted in March 2009, to retain an extension to the premises. This extension had a gross floor area of 37m².

4.6. **P.A. Ref 07/1524:** Planning permission was granted in October 2007, for an extension to the existing commercial storage warehouse with a gross floor area of 994m² including associated works. This effectively doubled the size of the commercial tyre storage operation. There were no details submitted with the planning application relating to vehicular type or movements, staffing numbers etc,

however the plans indicated 25 car parking spaces and the site area had increased from 0.33ha to 0.46 ha.

- 4.7. **P.A. Ref 05/574:** Planning permission was granted in June 2005, for a single-storey commercial storage warehouse with a floor area of 497m² and all associated site development works. Permission was granted for a second single-storey warehouse attached to the existing one, to be used for tyre storage.

The details provided with this application stated the following:

- 2 employees
- 2 articulated lorry deliveries each week
- Tyres distributed from the site using 2 vans (movements not specified).
- 17 car parking spaces.
- Hours of operation as previously.

- 4.8. **P.A. Ref 04/1379:** Planning permission was granted in February 2005, to retain an existing commercial storage warehouse with a stated gross floor area of 988m², including all associated site development works and entrance. The proposal involved a single commercial tyre storage warehouse with parking. The details provided with this application stated the following:

- 2 employees.
- 2 articulated lorries & 2 vans service the development. (Planning report stated movement of up to 4 times per day).
- 10 parking spaces provided.
- Hours of operation 8am to 6pm.

- 4.9. Enforcement:

- 4.10. **P.A. Ref: TUD-22-044:** Unauthorised commercial development – subject of the current application. Enforcement Notice issued.
- 4.11. **P.A. Ref: TUD-21-128:** Relates to unauthorised commercial development at the main site– file closed on 29/03/22.

- 4.12. **P.A. Ref: P142/228:** Warning letter issued relating to unauthorised warehouse at the main site. Case closed on 23/2/2005.
- 4.13. **P.A. Ref: ENF 76/08:** Unauthorised retail and wholesale development at the main site. Case closed on 6/4/2009.

5.0 **Policy Context**

5.1. **Tipperary County Development Plan 2022-2028**

5.2. Volume 1- Chapter 8 Enterprise and rural development

Rural Employment Strategy

Rural areas, including rural towns, villages and open countryside, play a key role in defining the County's identity and sustaining rural communities. They also drive the economy and high-quality environment, and are an important part of the county's strategic development. In addition to the natural resources and food sector as traditional pillars of the rural economy, improved connectivity, broadband and rural economic development opportunities offer the potential to ensure the County's rural area remains and strengthens as a living and working community. The Council will seek to protect high-quality agricultural lands and to support a diverse and sustainable rural economy.

5.3. **8.4.4 Start-up Enterprise in the Open Countryside.**

It is recognised that the viability of start-up enterprises is often dependent on the use of a home base. On a case-by case basis, the Council will seek to facilitate small-scale enterprise developments outside of settlements, to facilitate a start-up entrepreneur in or adjacent to their own home. Proposals will be balanced with the need to protect the residential amenities of adjoining landowners, and the visual amenities of the area. In this respect, proposals for new buildings should be of domestic proportions and capable in time of returning to a domestic use. It should be noted for clarity, that uses that would entail significant customer draw, including non-farm related shops/retailing will not be considered appropriate in the open countryside. Furthermore, if the enterprise needs to expand significantly and has no operational need to be located in a rural area, it will be expected to locate to a settlement with the appropriate level of infrastructure and services.

5.4. **8.5 Non-conforming uses**

In cases where authorised long-established commercial activities are in operation at locations that are not compatible with current planning objectives, the Council will support their continued operation and expansion, provided that it does not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the area or creation of a traffic hazard.

5.5. **Policy 8-3** Facilitate proposals for employment generating developments of a 'strategic/regional scale' at locations outside of designated lands in settlements, subject to the demonstration of a need to locate in a particular area. These will be considered on a case by case basis, and must demonstrate that;

(a) They are compatible with relevant environmental protection standards, the protection of residential amenity and the capacity of water and energy supplies in the area, and,

(b) They would not compromise the capacity of strategic road corridors in line with the Spatial Planning and National Roads, Guidelines for Planning Authorities (DHLGH, 2012).

5.6. **Policy 8-5** Support and facilitate small-scale start up-rural enterprise in the countryside within and/or adjoining the owner's home. Development proposals will be required to meet the following criteria:

a) The development shall not have an adverse impact on the residential, environmental and rural amenity of the area;

b) Any new structure shall be of a scale appropriate to the size of the site, and be sited and designed to ensure it does not detract from the rural setting and landscape character of the area;

c) Where the enterprise or activity develops to a scale that is inappropriate by virtue of activity or size in its rural context, the Council will encourage its relocation to a more suitable location on zoned land within towns and villages, and,

d) Uses that would entail significant customer draw, including non-farm related shops/retailing will not be considered appropriate.

5.7. **Policy 8-9** Where commercial/industrial enterprises exist as non-conforming but long-established uses, to support their continued operation and expansion, provided

such does not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard.

5.8. Volume 2 - Appendix 6 Development Management Standards

6.0 Parking, Traffic and Road Safety

6.1 Road Design & Visibility at a Direct Access

A direct access is a vehicular access from any residential, commercial or agricultural property to and from a public road. New direct accesses shall not be permitted within 90m of the exit of a roundabout on a national road, or within 50m of the exit on a non national road.

Any direct access to a rural national primary or rural national secondary road shall comply with the visibility parameters contained in Section 5.6.3 of TII Publication DNGEO-03060, Geometric Design of Junctions.

Any direct access to an urban national primary or national secondary road shall comply with the visibility parameters contained in Section 4.4.5 of the Design Manual for Urban Roads published by the Department of Transport, Tourism and Sport.

5.9. **Natural Heritage Designations**

The closest Natura 2000 sites are the Lower River Suir SAC (site code:002137) circa 1.1km to the south of the site, Comeragh Mountains SAC (001952) circa 15km to the south east, and Galtee Mountains SAC (site code: 000646) circa 17.9kms to the west of the site.

5.10. **EIA screening**

The project is below the threshold for triggering the need to submit an EIAR and there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an 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

6.1.1. Peter Thompson Planning Solutions on behalf of Barne Accessories Limited (Applicant) has submitted the following summarised grounds of Appeal:

1. Development in compliance with Policy 8-9 of the Development Plan

- Proposal is in keeping with objectives of Policy 8-9 which supports in principle the continued operation and expansion of existing commercial operations in rural locations, providing it does not result in the loss of amenities to adjoining properties, adversely impact the environment, be visually detrimental to the character of the area, or create a traffic hazard.
- Proposed development is not overly visible from the surrounding rural area – acknowledged in planners report.
- Planners report refers to the scale of the development being significant. However, the scale would only be an issue if it had an adverse visual, amenity and traffic impacts. Previously this was not an issue, and the location of the development is out of public view and its location avoids the perception of overdevelopment in one (more prominent) location.
- The future expansion of the existing buildings next to the subject site is not a relevant consideration in the assessment of the development.

2. Traffic and deliveries

- No objections from households in the immediate vicinity of the existing business living along the cul de sac serving the development.
- Submissions received from persons living between 0.78km and 1.8km to the extension to be retained along the L3282, and they will not be impacted by noise from loading and unloading and there will be no visual impacts.
- Bulk deliveries have reduced from the P.A Reg: 22/17 permission, i.e 6-7 deliveries per week including the bulk deliveries. Extract from Applicant's deliveries between July 2022 and October 2022 indicates there was an average

of 4 deliveries to the warehouse each week during the stocking of the warehouse to be retained. There was one week in August where there was more than 7 deliveries in a week and there were 9 deliveries that week.

- Reduction in bulk deliveries as a result of the new development which will reduce level of traffic and potential for incidents.
- Number of vans leaving each day with deliveries to customers (9 per day) has not changed since the P.A. Reg: 22/17 application was granted.
- The delivery traffic arising from the existing business is insignificant in the context of the volume of traffic that travels along the L-3282 each day (due to home deliveries/on line retailing etc.)
- The Planning Authority have no grounds for refusal no.2. The local road is not substandard, it is to a standard deemed suitable to facilitate the original business and the extensions to same permitted up to April 2022 (planning application 22/17) and the warehouse has not added further traffic.
- Raises concerns about conflicting reports of District engineers on the planning application. Original report had no objections subject to exiting vehicles turning left to rejoin the N24 and M8. The amended reason for refusal was not countersigned by the Senior Executive Planner. The conditions recommended by the Senior Executive Engineer to regulate traffic movements onto the public road is enforceable and refusal reason no.2 is not justified.
- Continued use of the cul de sac (L32121/private road) will not adversely impact residential amenities or present a traffic hazard. (Only one house along cul de sac not a family member and they have no objections)
- There is no basis for refusing on traffic grounds, as there will be no increase in the number of deliveries or dispatches and no impact on the road network.
- The number of farm vehicles using the cul de sac has decreased as the Applicant's family have diversified from agriculture to forestry.
- Applicant is willing prepared to enter into a binding and enforceable traffic management agreement with the Planning Authority to ensure all delivery vehicles exiting the site in a westerly direction.

- No basis for refusing on traffic grounds as the warehouse structure will have no adverse impacts on the rural environment or amenities.

3. Justification for additional warehousing

- Planner's report failed to have due regard to the circumstances that led to the need for additional warehousing which accompanied the application.
- Additional storage required to remain competitive and most likely implication of not retaining the warehouse will be the business will close and loss of jobs.
- The original business cannot function with a satellite warehouse elsewhere, as it would not be operationally or not financially viable.
- Land use planning system aims to facilitate social and economic development in line with regional and local planning policies, and the Planning Authority failed to do so.
- The economic benefit of permitting warehousing facility and safeguarding employment far outweigh concerns regarding the scale of the enterprise and its split location of the landholding.

6.2. Planning Authority Response

None

6.3. Observations

6.3.1. Observations received from four parties on the following summarised grounds:

Andrew & Maria McCoy

- The Applicant is willing to enter into a binding and enforceable traffic management agreement to ensure all HGV container traffic exiting the site do in a westerly direction, but has omitted to state what route this traffic would enter.
- There are 2 routes which connect to the N24 both of which have rail bridges and query whether all HGV vehicles would be able to access/egress the site using these routes (Maximum heights of both bridges 3.69m and 4.03m).

- The current route used by this traffic L-3282 is too narrow, with blind bends and hill crests and unsuitable for HGV traffic.
- Noticed a marked increase in HGV container deliveries along the L3282.

Noel Kennedy

- Enforcement notice has been issued to remove the structures on owners.
- Discrepancies with the planning application and name and address of owners.
- International company not suitable for a rural area.
- Vibration from heavy traffic and trucks has damaged house and workshop.
- Level of traffic as a result of the business is incorrect.
- Submitted video and pictures of collision along the L-3215 of accidents with HGVs.
- There are bridge height restrictions along L3213 &L3214, which would send trucks in another direction with narrower roads.
- Danger of fire and inability of fire truck to access the site - health and safety risk.

Thomas Halley

- Reference made to the cul de sac serving the proposed warehouse, when the L3282 is the only access road where the residents reside.
- The grounds of appeal state the appellant is not aware of any reported collisions which is not the case.
- Although appellant is willing to enter into a traffic management agreement to ensure all delivery vehicles exit the site in a westerly direction – does not specify the westerly route intended to take.

Jim Hayde

- Business has grown out of proportion.
- Road network unsuitable and cannot support the large trucks.
- There have been many accidents/incidents reported to Gardai.
- Local residents afraid to use roads.

7.0 Assessment

7.1. I have examined the file and the planning history, considered local and national policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the main issues raised adequately identify the key potential impacts and can be dealt with under the following headings:

- Policy Context,
- Capacity of the road network for the development,
- Other, and
- Appropriate Assessment.

7.2. Policy Context

7.2.1. The site is located on agricultural lands and is positioned between Clonmel and Cahir, one a Key town and the other a District town respectively, within the County's settlement hierarchy. The Development Plan states the Council is committed to the strengthening of its settlement structure, creating centres where jobs are close to where people live, and where services and amenities can be provided. In line with the County Settlement Hierarchy, new strategic economic development will be focused on the Key Towns or District towns. As opportunities arise, appropriately scaled, local employment facilities will be supported in the smaller settlements of the county on lands zoned for enterprise and employment use in the District Centres, and on a case-by-case basis in smaller settlements.

7.2.2. Section 8.4 of the Development Plan acknowledges that Tipperary is renowned for its agricultural, horticultural and bloodstock industries with above the State average (nearly 11%) of its workforce employed in such industries. The rural areas can provide development in expanding industries such as tourism, bio energy or renewable energy, where such economic sectors may not be located elsewhere, and therefore the Plan seeks to protect high quality agricultural lands to support a diverse and sustainable rural economy.

- 7.2.3. Nevertheless, Policy 8.5 of the Development Plan will facilitate small scale rural enterprise in the countryside within and/or adjacent to the owner's home. Proposals will be balanced with the need to protect the residential amenities of adjoining landowners, and the visual amenities of the area. Where the enterprise or activity develops to a scale that is inappropriate by virtue of its activity or size in its rural context, the Council will encourage its relocation to a more suitable location on zoned land within towns and villages.
- 7.2.4. Although the current proposal is seeking the retention of a warehouse building with a floor area of 1,730m² on a site of 0.59ha, this building is not a standalone building as it is affiliated to the existing tyre storage business to the northeast at the entrance to the laneway, and cannot therefore be considered in isolation. The connection of the appeal site to the existing business is not disputed by the Applicant who noted it is 'integral' to the existing business. I also noted on the day of my site inspection, a transit van driving between both sites. As outlined above in the planning and enforcement history of the appeal site and the associated site to the northeast, the current tyre storage warehouse enterprise has grown over a period of 18 years from a single warehouse building with a floor area of 988m² on a site of 0.275ha to two separate sites with a combined area of 1 ha and buildings with a combined floor area of 5,486m². The floor area of the structures on site have increased by 555% in size and the overall site area has more than doubled. I therefore consider the rationale for permitting the original structure on site as a 'start-up' small scale rural enterprise is no longer applicable in this instance, given the overall scale of the appeal building and area of the business operation.
- 7.2.5. The Applicant contends the appeal building is an extension to an existing non-conforming but a long-established use, and is necessary, due to the forced bulk delivery nature of the business. I can see no reason other than the Applicant's owning the land for the business to continue to expand in this rural location.
- 7.2.6. I note in the current Development Plan both Clonmel and Cahir, both close to the subject site are both strategically located on the Waterford-Limerick N24 and rail corridor, and form part of a linear network of towns in South Tipperary that form part of the strategic inter regional transport and economic corridor between Waterford

and Limerick with links to all the major ports. Clonmel also has a 'Strategic Employment' serviced landbank of 121ha., which would accommodate the current business on zoned lands close to a good transport corridor. Given the nature of the business operation and the need to import tyres from Europe and elsewhere and the size of the vehicles required to deliver the tyres, Clonmel or Cahir, in accordance with the sustainable settlement strategy for the county would be more suitable locations for a business of this nature.

- 7.2.7. The proposed expansion of the business on a separate site is, in my opinion, substantial, and I noted on the day of my site inspection the scale of the articulated lorries and HGV vans was significant, particularly having regard to the nature of the surrounding local roads. The rationale presented in the grounds of appeal for the structure is to accommodate for the changing nature of the tyre business and the bulk importing of tyres. However, this is ultimately an expansion of the existing business and it is considered, having regard to the policies and objectives of the development plan and those specific to the rural area and settlement strategy, a commercial enterprise of this nature and scale should be directed into an existing settlement on zoned lands.
- 7.2.8. Policy 8-9 of the Development Plan supports non-conforming uses in cases where authorised long-established commercial activities are in operation at locations that are not compatible with current planning objectives, provided that it does not result in loss of amenity to adjoining properties, adversely impact on the environment, detrimental to the visual character of the area or result in the creation of a traffic hazard.
- 7.2.9. The development is located within Landscape Character 4 The River Suir Central Plain and is a Class 1 landscape which is a fairly robust landscape. I would agree that the warehouse the subject of this appeal, although visible from the road, does not have an overly adverse impact on the environment or visually impact on the surrounding area. However as discussed below, the proposed warehouse does impact on the surrounding residential amenity due to being a traffic hazard as it results in an intensification of the existing non-conforming use.

7.3. Capacity of the road network for the development

- 7.3.1. The business is located on the western side of a local road the L- 3282 and is accessed off a bend on the road at this location. Any vehicles exiting or entering the site must travel along the L3282 from the east or west and then onto the L-3214 from the west to access the N24, c.3km from the site. Both roads are typical narrow local rural roads with a series of bends. Furthermore, the location of the entrance into the site being on a bend makes it difficult for large vehicles to manoeuvre into and out of the site.
- 7.3.2. The Applicant in their grounds of appeal note the objectors to the proposal do not live along the laneway and live between 0.78km and 1.8km away from the development and there were no objections from the people living along this laneway. However, it is not the capacity of the laneway that is the traffic issue but the surrounding road network's capacity to accommodate the development and the associated HGV traffic and articulated lorry movements and the impact on public safety which is raised by the Planning Authority in their refusal reason.
- 7.3.3. The Applicant states the number of deliveries to the business has not increased despite the need for additional tyre storage warehousing. However, what has changed since 2019 is the scale of some deliveries with articulated lorries bringing in full loads of tyres rather than part loads. On the day of my site inspection, I noted there were two articulated lorries loading and unloading tyres and 6 transit vans on the main site. The level of vehicular movements on the site was extensive, and although the subject building, according to the Applicant, will not result in more vehicular activity, it provides more storage room for the business and is therefore in my opinion, an intensification of the use of the existing business.
- 7.3.4. The Applicant has not provided a traffic assessment for the proposal but refers to an extract of records of bulk deliveries kept by the Applicant between 1st July 2022 and 31st October 2022. On average during this period there were 4 deliveries a week to the subject site, in which the building was being stocked and there were no deliveries to the permitted warehouse and containers at that time. The Applicant contends this represents a significant net reduction in traffic movements. Within the specified time

period provided by the Applicant there was one week when there were more than 7 deliveries in a week, when there were 9 deliveries that week. The number of dispatches from the site remains at 9 as specified in P.A Ref: 22/17. The Applicant concludes that the number of bulk deliveries has decreased since the new warehouse has been introduced and the trend is expected to continue.

- 7.3.5. The Applicant has provided very little evidence regarding the vehicular movements to/from the site other than to refer to an extract of a vehicular log over a 3-month period. Over the 18-year period of the development of this business there has been an incremental impact on the local road network, by virtue of the changing nature of the business and type of vehicles and number of deliveries to and from the site, in addition to the number of employees. The Applicant has failed to provide a robust traffic assessment for the development, and I do not feel it is pertinent to rely on a relatively short vehicular log period as presented.
- 7.3.6. The Applicant refers to the third-party submissions regarding photographs of incidents along the road and notes that these cannot be verified as being connected to the appeal business. The local roads were deemed suitable to facilitate the original business and the extensions up to 2022 (P.A Ref: 22/17) and all other road users, including residents and farming enterprises. I would agree it may be difficult to verify the photographs submitted in the third-party submissions without accident figures. Over the 18-year operation of the business, the number of employees has increased from 2 to 9, there are 9 vehicles leaving the site each day which equates to 18 movements into and out of the site per day, and 6-7 articulated deliveries each week which equates to 12-14 movements each week. This is a minimum of 102 vehicular movements along the L3282 a week (not including employees) to this business alone.
- 7.3.7. The proposed development the subject of this appeal, is a result of the change in the nature of the business over time. I therefore consider, regard to the third-party submissions is relevant and necessary and there is a noticeable intensification of traffic to the site, and a change in the type of vehicles to and from the site which is impacting on the residential amenity of the residential occupiers along the L-3282, in

terms of the level of activity along the roads and the type of vehicles being used by the business.

- 7.3.8. This is established by the Council's engineer's reports on the development which notes incidences of traffic congestion in the area and the need for rigid body trucks to reverse along stretches of the road. One of the District engineers recommended that should permission be granted a condition requiring all trucks when making deliveries to or from the facility turn left upon adjoining the L-3282. The engineer's recommended condition by its very nature indicates there is a problem with vehicles leaving and entering the site. I would concur with the Planning Authority that this is not an enforceable condition and is too vague and would not meet the criteria for conditions as outlined in the Development Management Guidelines 2007 (Section 7.3.3 refers).
- 7.3.9. The Applicant has stated the level of activity along the local roads in the vicinity has intensified in recent times and this can be attributed to an increase in home delivery orders and online retailing, and the level of traffic associated with the existing business is insignificant in comparison. The increase in traffic associated with online retailing cannot be controlled within the remit of the planning process. However, having regard to the location of the site within a rural area, the surrounding local roads, and the policies and objectives of the current development plan which direct employment activities to settlements, I consider the proposed expansion of the existing facility represents an intensification of development which is not appropriate at this location, and the proposed development would be contrary to the proper planning and sustainable development of the area.

7.4. Other issues

7.4.1. Procedural

The Applicant refers to conflicting views and procedures within the Planning Authority from the district engineer's original comments on the proposal and junior members of staff overruling the recommendations of senior planners. This is a procedural issue relating to the Planning Authority and outside the remit of this appeal. I am satisfied the decision made by the Planning Authority to refuse

planning permission which was signed by the Director of Services on 12th January 2023 is a valid decision.

Fire Risk

An observer has raised a concern about the warehouse being a fire hazard. This aspect was not raised by the Planning Authority. While I note the concern, a development of the type proposed would require a Fire Certificate under the Building Control Regulations. Compliance with fire safety requirements is, therefore covered under a separate, parallel, regulatory requirement and is not a material consideration under the current planning process. In this regard, I am cognisant of the guidance set out in the Development Management Guidelines, 2007 in relation to matters that are the subject of more specific controls under other legislation. The guidelines state that it is not appropriate to deal with such matters as part of the development management process (Section 7.8 refers).

7.5. Appropriate Assessment

- 7.5.1. There is no hydrological link between the site and the nearest Natura 2000 site the Lower River Suir SAC, c.1km to the south of the site. Having regard to the nature and scale of the proposed development, 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 a European site.

8.0 Recommendation

- 8.1. It is recommended the development is REFUSED for the following reasons and considerations.

9.0 Reasons and Considerations

1.	It is the policy of the Planning Authority, as set out in Policy 8-9 of the current Development Plan to permit development proposals for the continued operation and expansion of commercial enterprises in the countryside provided it does not result in the loss of amenity to adjoining occupiers or create a traffic hazard. Having regard to the scale of the
----	---

	<p>expansion of the enterprise to be retained, which would result in a significant increase in floor and site area on a separate location from the established commercial enterprise, and the capacity constraints in the local road network, it is considered that the works to be retained adversely impact on the amenity of the adjoining residential occupiers and would be contrary to the provision of Policy 8-9 of the Tipperary County Development Plan 2022 and to the proper planning and sustainable development of the area.</p>
2.	<p>Having regard to the scale of the development in a rural area outside the boundaries of any settlement, the increased level of Heavy Goods Vehicle movements associated with the development, the limited capacity of the local road network to accommodate the additional HGV traffic by reason of its narrow width and the potential for the increased HGV activity on the receiving local road network to give rise to accidents and incidents, it is considered that the retention of the development would endanger public safety by reason of traffic hazard or obstruction to road users.</p>

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.

Catherine Dillon
 Planning Inspector

8th September 2023