



An
Bord
Pleanála

Inspector's Report ABP-315779-23

Development	Retention and changes from convenience shop to Restaurant and Takeaway and Permission for associated changes to existing filling station and signage.
Location	Barraduff District Town, Killarney, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	22/502
Applicant(s)	Oliver Favier
Type of Application	Retention and Permission
Planning Authority Decision	Grant subject to Conditions
Type of Appeal	First and Third Party
Appellant(s)	1 st Party – Oliver Favier 3 rd Party – Catherine Reen.
Observer(s)	None
Date of Site Inspection	3 rd July 2023
Inspector	John Bird

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1.0 Site Location and Description

- 1.1. The site is located on the north side of the N72 National Secondary Route between Killarney and Mallow. It is in the middle of the District Town of Barraduff.
- 1.2. In the Killarney Municipal District Local Area Plan 2018 – 2024, the street is described as an “intermittent streetscape.” The filling station backs onto the Owneyskeagh River. Barraduff Garda Station is on the south side of the road opposite the site.
- 1.3. At the time of inspection, in late afternoon, the proposed restaurant was closed. A number of drivers used the card only filling station. The outside toilet is approached from the south by a severe drop. At the west is a ramp leading upwards to closed gates leading to the river area. The riverbank and the river were not visible from the filling station part of the red line site. The east side of the ramp falls sharply. The forecourt slab is cracked and in poor condition.
- 1.4. The site is within a statutory speed limit. There are double yellow lines on both sides of the street. Traffic was light, but it was difficult to cross the road easily and safely. There is no local traffic calming or pedestrian crossing facility in reasonable proximity to the site.

2.0 Proposed Development

- 2.1. It is proposed to retain change of use from convenience shop to restaurant and takeaway and retain signage changes. A mobility impaired parking space, a dropdown area and 6 No general parking spaces are proposed. The internal layout shows 36 No. restaurant places and a wheelchair accessible WC. The outside toilet is described as a sluice room. Three pump islands are to be retained. A continuous fence is to be provided along the northern boundary and no alternative access is shown to the northern part of the red line site at Shronedarragh, Barraduff, Killarney, Co. Kerry.
- 2.2. A number of standard construction issues including fire safety are listed on plan drawings.

3.0 Planning Authority Decision

3.1. Decision Permission subject to Conditions.

Condition No. 5. Operating hours 0800 – 2200.

Condition No. 6. Takeaway shall operate only when the restaurant is open.

Condition No.10 Does not permit internally illuminated signage.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further Information and internal and external reports - no significant issues arose.

3.2.2. Other Technical Reports

Transport for Ireland had “no observations to make.”.

Kerry National Roads Office – no response found on file.

Fire Officer – Retention (Building Control), Fire Certificate and Disabled Access Certificate issues to be subject to conditions.

4.0 Planning History

Reg Ref 841/91 – Permission Granted for a commercial garage, accessory shop and new front facade on a larger site which includes the current site.

4.1. Development Plan

The South West Regional Authority Spatial Development Strategy, Fig 2.2, shows Barraduff is on the N 72 “Regional Corridor” between the Hub Towns of Killarney and Mallow.

The Kerry County Development Plan 2022-2028 is the relevant county development plan for the area.

The Killarney Municipal District Local Area Plan 2018 – 2024, Section 3, Page 75, identifies Barraduff as a District Town.

The Barraduff Zoning Map shows that the site is within an area zoned “Mixed Use M2 Town Centre.”

Section 3, Page 76 states: - “the implementation of traffic calming will create a more attractive and safer village centre.”

4.2. Natural Heritage Designations

None in the vicinity of the urban site.

4.3. EIA Screening

4.4. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

5.0 The Appeal

5.1. Grounds of Appeal

- Traffic impact of proposed takeaway on a village street, leading to significant hazardous parking.
- Inadequate parking for the retail uses proposed.
- The 3rd Party objects to the internally illuminated signage on grounds of traffic safety and residential amenity. Condition No.10 reads in part: “No internally illuminated signage shall be permitted”. “Reason: In the interest of visual amenity and traffic safety.”
- Inadequate waste storage and collection facilities.

5.2. Applicant Response

- That the proposed development is in accordance with the Local Area Plan for Barraduff.

- That the requirement of zero parking spaces for proposed developments in Town Centres is in accordance with the County Development Plan.
- That adequate sightlines are available.

5.3. **Planning Authority Response**

- None on file.

5.4. **Observations**

- None.

5.5. **Further Responses**

- None on file

6.0 **Assessment**

6.1. The planning issues in this case are: -

- Change of use from shop to restaurant.
- Part use as takeaway.
- Increased traffic.
- Lack of adequate parking.
- New issue – Barraduff Traffic Calming Scheme.
- New Issue – forecourt hazards – need for works in vicinity of fuel pumps and fuel storage tanks.
- New issue - access to riverside backlands for maintenance and emergency services.

6.2. It is my view that the proposal is in general in accordance with the provisions of the Kerry County Development Plan 2018 – 2024 and with the provisions of the Killarney Municipal District Local Area Plan 2018 – 2024 as it relates to the District Town of Barraduff.

- 6.3. However, I share a number of concerns with the 3rd Party Appellant. I am also concerned that hazardous conditions exist on site with no attempt to rectify them by either the Applicant or the Planning Authority.
- 6.4. With regard to the proposed restaurant, I can see no objection to the change of use from a convenience store. I note that the filling station is card only so that motor drivers requiring only fuel do not have to linger at the pumps.
- 6.5. In the absence of proposed traffic calming and the lack of any traffic statistics from any party or statutory organisation, I assess from my own experience that, in the absence of traffic calming the takeaway operation, while acceptable in principle in the centre of a District Town, could give rise to serious traffic hazard by reason of increased traffic turning movements.
- 6.6. I note that in the 5th Year of the Kerry County Development Plan 2018 – 2024, no reference has been made in relation to the traffic calming scheme. I also note that the “intermittent streetscape” results in there being less psychological pressure on drivers to slow than there would be in a town with a continuous street frontage and greater sense of place.
- 6.7. It is therefore my view that the proposed takeaway element should be regarded as Premature and omitted until temporary or full traffic calming measures are in place within the town and preferably close to the site.
- 6.8. I have referred to the difficulty in crossing the street but agree with the Applicant that adequate sightlines appear to be available.
- 6.9. There are no clear boundaries to the public road, the public footpath, the forecourt, or the crossover area and no “In / Out” signs. These matters could be discussed between the Applicant and the Planning Authority.
- 6.10. Matters related to waste storage and illuminated signs have been dealt with.
- 6.11. New issue. I have described the existing rising ramp to the river area and the steep slope in the vicinity of the exterior toilet / sluice room. In relation to the sluice room, stated levels show a drop of approximately half a metre in this area, which presents hazards. This abrupt change of level can be clearly seen in the photographs on Page 3 of the Planner’s Report.

- 6.12. Of equal concern is the absence of levels and cross-sections, existing or proposed, in the area of the existing ramp and gate.
- 6.13. It is therefore totally unclear as to what is proposed in these parts of the site to make them safe for parking and pedestrians. Whether the site is to be raised or lowered, I consider that substantial construction works will be required in the vicinity of fuel pumps and underground fuel tanks. I have considered whether a Condition could be imposed but given the many issues that arise relating to Fire Safety, Construction Management and Waste Disposal I conclude that the present application should be refused so that these issues can be addressed in the first instance by the Applicant and the Planning Authority, rather than as a New Issue by the Bord at Appeal Stage.
- 6.14. The plans show that it is proposed to remove the existing gate leading to the agricultural diesel tank and the riverside area. I consider that an access should be kept to maintain the tank and the river bank and also to provide access to the river for emergency services. Access provision would require the omission of one of the proposed parking spaces, but such loss of a parking space would not be material.
- 6.15. I consider that the overall submission made by the 3rd Party is reasonable, but with reference to the parking standards in the County Development Plan I consider that parking would be adequate.
- 6.16. The 1st Party Response in relation to the proposed uses is supported by the County Development Plan, but in the absence of the proposed traffic calming scheme, I consider that that proposed takeaway element is premature and could give rise to serious traffic hazard.
- 6.17. I consider that the most serious unresolved issues relate to the absence of detailed proposals for works to the forecourt slab that are necessary to achieve the proposed development.
- 6.18. **Appropriate Assessment Screening**
- 6.19. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site it is possible to screen out

the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

7.0 Recommendation

The lack of detailed proposals for the treatment of the forecourt area in the vicinity of active fuel pumps and underground fuel storage and the lack of a Construction Management Plan and a Waste Management Plan could give rise to dangers for pedestrians and vehicles within the site.

In the absence of the proposed traffic calming scheme the proposed takeaway is premature.

No access has been provided to the riverside area for maintenance or emergency services.

I therefore conclude that the present application be Refused to allow the above issues to be addressed.

8.0 Reasons and Considerations

1. In the absence of detailed existing and proposed levels and details of works in the forecourt area adjoining and adjacent to live fuel and underground fuel storage tanks and the absence of a Construction Management Plan and a Waste Management Plan, it is considered that the proposed development could give rise to serious public safety issues.

2. In the absence of the proposed traffic calming measures in the Barraduff Local Area Plan 2018 – 2024, it is considered that the proposed takeaway could create additional traffic turning movements that could give rise to serious traffic hazard.

3. The proposal to fence off the riverbank and the agricultural diesel tank within the red line of the site could create issues for maintenance and emergency services access to the Owneyskeagh River and would conflict with the parking layout as proposed.

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.

John Bird
Planning Inspector

6th August 2023