



An
Bord
Pleanála

Inspector's Report

ABP-317058-23

Development	Extension of Ballinakill shopping centre units
Location	Unit 3, Ballinakill Shopping Centre, Dunmore Road, Co. Waterford
Planning Authority	Waterford City & County Council
Planning Authority Reg. Ref.	22967
Applicant(s)	Laois Sawmills Limited
Type of Application	Permission
Planning Authority Decision	Grant subject to 10 no. conditions
Type of Appeal	Third Party
Appellant(s)	Kieran Kennedy
Observer(s)	None
Date of Site Inspection	12 th August 2023
Inspector	Bernard Dee

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1.0 Site Location and Description

- 1.1. The appeal site is located at the Ballinakill Shopping Centre on Dunmore Road (R683) in the eastern suburbs of Waterford City. The area is characterised by suburban residential development and the Shopping Centre provides for local needs and includes a supermarket, restaurants, pharmacy, and other typical services in a neighbourhood centre.
- 1.2. The shopping centre is located on the west side of Dunmore Road and immediately to the north is the Ballinakill roundabout. Customer access to the shopping centre parking in the rear is gained from the road (unnamed) leading to the NE off the roundabout. There are also 7 no. parking spaces and a disabled parking bay to the front of the shopping centre facing onto and accessed from Dunmore Road on a one way system. The inward access to the service yard located in the SE section of the shopping centre is off the Dunmore Road just south of the front parking area.

2.0 Proposed Development

- 2.1. The drawings submitted with the planning application as revised by Further Information requirements show that a single storey extension of 76m² is proposed to the SE corner of Unit 9 (Londis store) which faces onto Dunmore Road.
- 2.2. An extended flat roof area is also proposed on the Dunmore Road elevation of the shopping centre to accommodate extensions to Unit 6 (Florist) of 19m² and Units 7 & 8 (Pharmacy) of 30m². The extended ground floor areas bring forward the recessed building line close to the line of the projecting central bay and flanking end bays. There is also a yard area of 12m² proposed adjacent to Unit 6.
- 2.3. It should be noted that the red line boundary encompasses Units 6, 7, 8 and 9 but the remainder of the shopping Centre is not included in the application which is the subject of this appeal. See section 7.1.3 below for further comments on the red line on Further Information drawings. In addition, the unit numbers on the ground floor plan received as Further Information and which quantifies the m² areas of extension for each unit is incorrectly labelled. In this drawing Unit 11 = Unit 6 (florist), Units 10 & 9 = Units 7 & 8 (pharmacy) and Unit 8 (Londis) = Unit 9

- 2.4. Alterations to the entrance to the service yard are also proposed and include the widening of the pavement next to the Londis store, a narrowing of the access lane to the service yard to ensure one way traffic only (access from Dunmore Road and exit to the rear of the site as is currently the case) and also new road markings and signage.
- 2.5. The GFS of the existing building is stated to be 505m² and the GFS of the proposed extension area is stated to be 145m² which was reduced to 137m² following modifications at Further Information stage when the proposed extension of Unit 9 was reduced in size to accommodate a 2m wide footpath near the Dunmore Road entrance to Londis.

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was granted on 11th April 2023 subject to 10 no. conditions. These conditions relate to the development being built in accordance with the plans and particulars, signage to be agreed in advance of carrying out works and other conditions typical for the type of development proposed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two Planner's Reports on file, the initial report dated 17th January 2023 which requested Further Information from the applicant (internal reconfigurations proposed at the Londis unit, the square metre extension areas to be indicated on drawings, impact on first floor restaurant terrace above the Londis unit, signage details and a road safety audit) and a second Planner's Report dated 5th April 2023 which assessed the response to the Further Information Request and recommended a grant of permission.

The main points contained in the Planner's Report are as follows:

- The floor plans of the Londis unit have been revised to retain the tills near the main entrance to the rear (north) of the Shopping Centre which has access to the main car park and the tills located in the front (south) of this unit are to serve a proposed off licence only.
- The first floor restaurant terrace above the Londis unit will be unaffected by the proposed ground floor extension.
- The signage submitted on foot of the Further Information Request is acceptable and can be the subject of a condition attached to a permission.
- The revised road layout has resulted in a reduction in the proposed Londis unit extension to allow for a 2m wide footpath at the Dunmore Road entrance as per the District Engineer's requirements.
- The GFS is reduced from 145m² as originally proposed to 137m² due to the reduction in size of the Londis unit extension area.
- The Planner's Report notes that neither AA nor EIA is required in respect of the proposed development.

3.2.2. Other Technical Reports

- The Roads Department requested Further Information and were satisfied with the response.

3.2.3. Prescribed Bodies

- No response from prescribed bodies on file.

3.2.4. Observations

Two observations were received during the five week period from Elaine Fennelly and Kieran Kennedy who is the Third Party appellant in this appeal. The issues raised in relation to the proposed development are largely along the lines of the Third Party appeal submission which is outlined in Section 6.0 below.

4.0 Planning History

4.1. On the Appeal Site

The following are the most relevant of the significant planning and enforcement history on the site:

- Refs. 98500230 and 96510009 relate to the parent permissions for the shopping centre including the units where the appeal site is located.
- Ref. 211004 relates to an application for a bin store located in the service yard which is currently on appeal to the Board Ref. PL93.314341.
- Ref. 21792 relates to a grant of permission on appeal (Ref. PL93.312634) for the construction of two 4 storey apartment buildings with a total of 60 apartments and all associated site works at the appeal site.
- Ref. 14600293 relates to an application that was granted for additional rear doors and signage to Units 8 and 9.
- Ref. 13500084 relates to a grant of permission on 25th October 2013 for the parking area in front of the Shopping Centre accessed off Dunmore Road.

4.2. In the Vicinity of the Site

- No relevant planning history in the vicinity of the appeal site is noted in the Planner's Report on file.

5.0 Policy and Context

5.1. Development Plan

Waterford City and County Development Plan 2022-2028 is the statutory plan for the area within which the appeal site is located.

The appeal site is located within zoning objective GB 'General Business' – 'to provide for and improve general business uses; this includes suburban district retail and local neighbourhood centres'.

5.2 District/ Neighbourhood Centres District suburban and Neighbourhood Centres are intended to cater for the daily shopping and service needs of the immediately surrounding neighbourhood, and will consequently be generally small in scale. In dealing with applications in local centres, any analysis should take cognisance of changing shopping trends and the social and economic circumstances of the area.

5.2. Natural Heritage Designations

The closest designated natural heritage sites are located approximately 500m to the east of the appeal site:

- Lower River Suir SAC (Site Code 002137).
- Proposed Natural Heritage Area: King's Channel (Site Code 001702).

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ 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. The Third Party appeal makes several references to rights of way, traffic hazard associated with the parking accessed from Dunmore Road (outside the red line boundary) and the planning and enforcement history of the overall site which are not of relevance to the current appeal. The Board may disregard comments in the Third Party appeal not directly relevant to the current appeal and the relevant planning grounds of the Third Party appeal are, in summary, as follows:

- The Further Information request required the applicant to provide a road safety audit which was not supplied by the applicant.
- The Further Information response is inadequate in terms of the drawings relating to road markings and signage.

- The proposed modification to the service entrance will not reduce the traffic hazard associated with the Dunmore Road traffic conflicts.

6.2. Applicant Response

The First Party response has been prepared by James Reynolds Building Engineers & Project Manager Ltd. and includes, as the Third Party appeal has done, responses to issues not relevant to the current appeal, comments on other planning applications/appeals and/or references to items located outside the red line boundary of the present application. The relevant planning points raised in the First Party response are, in summary, as follows:

- The reduction in the size of Unit 9 (Londis) was made to accommodate the requirements of the District Engineer as per the Further Information request which required a 2m wide footpath outside the Dunmore Road Londis entrance.
- Other improvements in road markings and signage relating to the service lane ingress from Dunmore Road satisfy planning authority requirements as per the Further Information request.

6.3. The Planning Authority states that they have no further comments to make on this case and that it was robustly assessed by the Planning Authority who urges the Board to confirm their positive decision in this case.

6.4. Observations

No Observations on file.

6.5. Further Responses

Not applicable.

7.0 Assessment

7.1.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal but that other substantive issues also arise.

7.1.2. The main issues to assess therefore are as follows:

- Principle of development.
- Design and quantum of extensions.
- Service yard access.
- AA Screening.

7.1.3. On a point of clarification to the Board, it appears that the red line boundary in the original application which ran along the western edge of the service lane has been extended eastward in the Further Information drawings to include the entire service lane width up to the property boundary with the Third party appellant's adjacent property. I am of the opinion that this extension of the red line does not affect the validity of the positive decision of the planning authority as the red line does not encompass third party lands and conditions relating to the service lane can be imposed as the applicant has an interest in said lands. The extension of the red line boundary does not affect the right of way referenced by the Third Party Appellant.

7.2. Principle of Development

7.2.1. Having regard to the GB zoning of the appeal site and to the proposal to extend the units the uses of which are deemed a 'Permitted Use' under the GB zoning objective, I consider that the proposed extension of Units 6, 7, 8 and 9 are acceptable in principle.

7.3. Design and Quantum of Extensions

7.3.1. This is an issue not raised by the appellant but one which needs to be assessed for the Board. The existing building is adequate in design terms for its location and retail/services offer. The florist, pharmacy and Londis now require addition storage or retail space.

7.3.2. The proposed extensions are all at ground floor level and are subordinate to the design of the existing facades. In aesthetic terms therefore the proposed extensions do not have an adverse impact on the existing building or the buildings in close proximity to the shopping centre.

7.3.3. The quantum of extension at 137m² is not, in my opinion, excessive given the ample parking provision on site and the quantum of existing retail/restraint/service space in the shopping centre. The extensions are spread over 4 no. units and a separate storage area (Units 7 & 8 have merged into a one unit pharmacy) and are relatively modest in relation to each unit and to the shopping centre as a whole.

7.3.4. In summary therefore, the design and scale of the proposed extensions are acceptable and proportionate in terms of the context of Ballinakill Shopping Centre.

7.4. Service Yard Access

7.4.1. The issue of the widening of the footpath, the narrowing of the service land and new road markings and signage appears to be satisfactory in clarifying the one way system of entry only from Dunmore Road and increases pedestrian safety when using the Dunmore Road entrances to these units where extensions are proposed by means of a widened footpath.

7.4.2. I do not believe that there is any additional traffic risk associated with the extensions of the units and I am of the opinion that the proposed modification to the service lane entrance layout will be acceptable in terms of traffic management.

7.5. AA Screening

Having regard to the relatively minor development proposed within an existing housing estate and the fact that there are no European sites in the vicinity of the appeal 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

I recommend that permission for proposed extensions of Units 6, 7, 8 and 9 and an additional storage space be granted for the reasons and considerations set out below and subject to the conditions hereunder.

9.0 Reasons and Considerations

Having regard to the provisions of the Waterford City & County Development Plan 2022-2028, including the zoning objective for the site (GB – General Business), which seeks ‘to provide for and improve general business uses; this includes suburban district retail and local neighbourhood centres’, it is considered that the development for which permission is sought would not injure the residential amenities of the area, nor give rise to traffic hazard and would represent an acceptable and proportionate extension of this shopping centre. The proposed development 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 15th November 2022, and as amended by further information received on 8th March 2023 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>Reason: In the interest of clarity.</p>
2.	<p>Details of all external signage, including road signage and markings, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the amenities of the area/traffic management.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>

4.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, any change to the signage or the internal/external illumination, shall be the subject of a separate application for permission to the planning authority.</p> <p>Reason: To enable the planning authority to assess the impacts of any such changes on the amenities of the area.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
7.	<p>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</p>

	<p>determine the proper application of the terms of the Scheme.</p> <p>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</p>
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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.

Bernard Dee
Planning Inspector

15th August 2023