



An
Bord
Pleanála

Inspector's Report

ABP-317761-23

Development	Construction of a showroom building and all associated site works. Demolition of showroom to the south-west of the proposed building.
Location	Tirlickeen & Moneyfad, Ballymahon, Co. Longford
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	2371
Applicant	Peter Hanley.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellants	Colm and Una Ledwith
Date of Site Inspection	16 February 2024
Inspector	Dolores McCague

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1.0 Site Location and Description

- 1.1.1. The site is located in the townlands of Tirlickeen & Moneyfad, Ballymahon, Co. Longford, on the north-east side of the R393 in a rural area circa 1.5 kilometres to the north of Ballymahon and a short distance to the north of the Royal Canal. The site is located outside the speed restricted area for Ballymahon, i.e.the 80km/hr limit applies.
- 1.1.2. To the north west and adjoining the site, but outside the site boundary, there is a commercial building (hardware and agricultural supplies), with access via the site. To the south east and also between the public road and part of the site (which runs to the rear), there is a two storey dwelling (the appellants).
- 1.1.3. Within the site, there are multiple commercial developments, including a filling station with a shop and dining area, a tyre outlet and motorcycle accessories shop, a motor repairs and a motor sales area. There are extensive areas of surface parking and forecourt areas around the buildings.
- 1.1.4. The site is given as 1.897ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the construction of a showroom building and all associated site works and the demolition of a showroom to the south-west of the proposed building. The gross floor area of existing buildings is given as 1,479 sq m. The gross floor area of proposed works is given as 272 sq m. The gross floor area of demolition is given as 228 sq m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided, 17th July 2023, to grant permission subject to 13 conditions, including:

3) design considerations: a) details of proposed architectural cladding, b) lettering and signage, c) revised site layout confirming the location of proposed visitor parking bays, to be agreed.

4) prior to commencement demolition / construction plan and traffic management plan to be agreed.

5) re. surface water.

11) no emissions or malodours etc. The subject site including the parcel of land that includes the wwtp/percolation area shall be kept in a clean and tidy state with no materials stored on the green site located to the south-east of the tree belt.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. There are two planning reports on the file. The first planning report, dated 16th May 2023, recommending further information, which issued, includes:

- Noting planning history.

3.3. Further Information

3.3.1. A Further Information Request which issued, 19th May 2023, included:

- Requesting applicant to submit details of ownership and authorisation to submit the planning application.
- Revised site layout plan and drawings to confirm the future use of the forecourt area, confirm separation distances from the site boundary, roadside boundary and neighbouring wwtp for existing wwtp and percolation area.
- Confirmation that existing wwtp is suitable and has sufficient capacity. Engineer's confirmation that the identified site works on the percolation area are not having a detrimental impact on its operation.
- Clarification of use of the lands to the SE. The site layout suggests that the area is screened and fenced off and unused, however, from an inspection the area is being used for the storage of materials, a digger is parked on the lands and from

an aerial photograph that part of the site, further to the east of the planted line of trees, is also being used for storage.

3.3.2. A Further Information Response was received, 21st June 2023, including:

- David Hanley, the owner, consents to the application.
- Forecourt will be used for additional parking. Separation distances for wwtp are identified on a drawing.
- Engineer's report confirming installation of wwtp in compliance with section 3.4 of PL11/5. There will be no increase in use.
- The area of land fenced off is used for storage. There is no intention to change the use of the lands to the SE of the site.

3.3.3. The second planning report, dated 11th July 2023, recommending permission, which issued, includes:

- Satisfied with responses.
- Appropriate assessment screening report with a finding of no significant effects.

3.3.4. Other Technical Reports

EHO, 18th May 2023 – conditions.

3.4. **Third Party Observations**

3.4.1. A third party observation on the file has been read and noted. It includes:

- The subject site incorporates an area of ground which has been purchased and developed, without benefit of planning permission into a big car display area.
- The subject site is located in the open countryside, not zoned, and would constitute intensification of haphazard development in an unserviced rural area.
- It would result in backland development behind the appellant's dwelling with detrimental impact on the residential amenities of their property.
- The existing garage / repairs shop, the associated breaking of vehicles and the crash car pick-ups are noisy and dirty activities, giving rise to traffic and

flood-lighting at all hours of the day and night. The noise and light pollution from existing facilities on the subject site already has a deleterious impact and would be further exacerbated by the proposed development at the rear.

- The proposed redevelopment would result in further turning manoeuvres on a busy regional road with no turning bay, no hard shoulder and where the 80km speed limit applies; and would endanger public safety.
- Owing to its scale, nuisance factor and location it would seriously injure the amenities and depreciate the value of the adjacent residential property. A map extract shows the expansion of the site area.

4.0 Planning History

PA. Reg. Ref. 22/218 - permission granted for: i) proposed alteration to the facades of the existing showroom building consisting of additional glazing, erection of a parapet, entrance canopy, installation of new cladding & signage; ii) proposed construction of a lean-to type extension to the existing vehicle service repair garage for use as a vehicle valeting area; iii) proposed erection of additional bollards along the front boundary of the property together with the proposed installation of automatic retractable bollards at the entry and exit locations of the property; and all ancillary works. Details provided by PA.

PA. Reg. Ref. 21/199 - retention granted for i) recently constructed concrete yard for the storage of vehicles which is an extension to an existing tarmac surfaced car park previously granted planning permission under 19/144; ii) retention of recently constructed lean-to extension to the existing workshop type structure previously granted planning permission under 19/318, 15/49 & 14/41. Details provided by PA.

PA. Reg. Ref. 19/318 - permission granted for construction of extension to existing workshop type structure previously granted permission under ref 14/41 and 15/49. Details provided by PA.

PA. Reg. Ref. 19/144 - retention granted for newly constructed tarmacked surface car park with perimeter fencing for storage of vehicles to existing car sales / repairs garage.

ABP 300146, PA. Reg. Ref. 17/185 - Board refusal, on foot of a decision to grant, for an extension to the south-east side of existing yard in which a new perimeter fence is

to be erected; the extension to be used for storage of vehicles for the existing sales and repairs business operated by the applicant for which permission was granted under PA. Reg. Ref 02/502.

Reasons:

- 1) non-conforming use in a rural area; and
- 2) injury to the amenities of adjoining residential property.

PA. Reg. Ref. 16/213 - retention granted for extension to south-eastern side elevation of existing garage/showroom for use as office / administration purposes together with the proposed construction of a door on the front façade of existing garage / showroom; and permission for relocation of existing security access in a south eastern direction.

PA. Reg. Ref. 15/49 - permission granted for retention of alterations to permitted workshop permitted under PA. Reg. Ref 14/41; retention of relocation of a commercial building permitted under PA. Reg. Ref. 12/274; permission for construction of a concrete yard and palisade fence, an increase in site boundaries to facilitate tyre storage, replacement of a door opening with a glass facade and pedestrian access on the south east elevation, installation of a roller shutter door on the north east elevation of the garage showroom and ancillary site development works.

PA. Reg. Ref. 14/41 - permission granted for demolition of a commercial building in use for repair and sale of tyres (permitted under PA. Reg. Ref. 12/274), and for construction of a workshop with lean to, for repair of vehicles and ancillary works.

PA. Reg. Ref. 12/274 - permission granted for retention of commercial building in use for repair and sale of tyres and site works and for change of use of part of the shop which is converted into café/restaurant use.

PA. Reg. Ref. 11/5 - permission granted for:

Replacement waste-water treatment system and percolation are with the existing septic tank and percolation area being decommissioned and,

Retention for the existing parking and traffic arrangements for the display of vehicles for sale, including alterations to the site boundaries and, enlargement of the site area and site development works.

PA. Ref. Ref 10/333 - application for permission for retention of the septic tank and percolation area, not determined.

PA. Reg. Ref. 08/565 - permission granted for an extension to the existing workshop on the site.

PA. Reg. Ref. 06/59 - permission granted for three 40,000 litre capacity underground fuel tanks and associated pipes and manholes, oil interceptor and minor alterations to the exiting pumps and associated works, copy of file provided.

PA. Reg. Ref. 02/504 - permission granted for retention of the vehicle compound boundary fencing and entrance; noting that the permitted development on the site has been subject of an enforcement history.

5.0 Policy Context

5.1. Eastern and Midlands Regional Assembly Regional Spatial Economic Strategy 2019 – 2031

- 5.1.1. This includes RPO 4.82 - that Local Authorities shall ensure that economic development that is urban in nature should be in the first instance located in urban areas.

5.2. Development Plan

- 5.2.1. Longford County Development Plan 2021 – 2027 is the operative plan.

Chapter 9 rural economy –

This Rural Development Economic Strategy sets out the policies and objectives required for the sustainable development of rural Longford, in a manner that is consistent with the guidance, strategies and policies at national and regional levels based on the following principles:

- A focus on supporting vibrant rural communities focused around a network of rural towns and villages.
- Facilitating the transition towards a low carbon and climate resilient society and encouraging a spatial pattern of development which reduces and discourages unnecessary trip generation.

Where established authorised rural based enterprises seek to expand beyond their existing capacity and, in the opinion of the Planning Authority, the expansion proposed would seriously affect the rural nature or amenity of the rural areas and surrounding countryside, they will generally be encouraged to locate in serviced zoned lands.

CPO 5.19 objective to protect routes of strategic importance within the County from further access creation and the intensification of existing accesses and development on national routes. Development on the National and Regional Routes outlined below shall be carefully considered to preserve their strategic role and safeguard the strategic function of the national road network, in accordance with the provisions of the DoECLG Spatial Planning and National Roads Guidelines (2012):

- The list includes 'R393 Longford to Ballynacarrigy/Mullingar'.

Works to accesses along these routes shall be assessed according to the relevant technical criteria, including the TII/NRA Design Standards.

Volume 2 Appendix - 'Non-conforming uses' are established uses that do not conform to the primary zoning objectives of the Plan. These include instances where such uses were in existence on 1st October 1964 (i.e. prior to planning legislation); have valid permission; are unauthorised but have exceeded the time limit for enforcement proceedings; have no permission and may or may not be the subject of enforcement proceedings. Any proposals for the expansion, improvement, or alteration of such uses will be considered on their individual merits. Development proposals that relate to the intensification of non-conforming uses, will be permitted only where the proposed development would not be detrimental to the amenities of the surrounding area and is consistent with the proper planning and sustainable development of the area.

5.3. Natural Heritage Designations

- 5.3.1. The Lough Ree SAC (site code 000440) and Lough Ree SPA (site code 004064) c4.2km straight line distance to the south-west are the closest Natura sites.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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

- 6.1.1. The appeal has been submitted by Colm and Una Ledwith. The grounds include:

- impact on the residential amenity
- inappropriate use in this rural area
- access and traffic safety
- impact on surface waters.

In total the planning authority have granted retention for 0.486ha of hard standing area for car parking and storage and permission for a further 317 sq m of workshop floorspace, despite the Board decision.

RPO 4.82 of the Eastern and Midlands Regional Assembly Regional Spatial Economic Strategy 2019 – 2031

Local authorities shall ensure that economic development that is urban in nature should be in the first instance located in urban areas.

9.3.1 of the CDP

Where established authorised rural based enterprises seek to expand beyond their existing capacity and, in the opinion of the Planning Authority, the expansion proposed would seriously affect the rural nature or amenity of the rural areas and surrounding countryside, they will generally be encouraged to locate in serviced zoned lands.

Commercial / industrial developments in rural areas may be acceptable subject to proper planning considerations, where the Council is satisfied that the proposed development is required to be located in the rural area, due to its dependence on an existing local resource or source material that is required for the carrying out of the industrial process / commercial activity / service. The local resource or source of material shall be in close proximity to the location of the proposed development.

Where an area is not within an identifiable settlement and is not otherwise zoned as part of this Plan, the use of such land shall be deemed to be primarily agricultural.

Concerned that there will be further expansion to the rear of their property, and they identify a hardstanding in that location.

The proposal will include car parking for an additional 200 cars.

There will be noise and petrochemical fumes as a result of additional traffic.

The additional traffic.

Impacts from lighting and display area for cars at night-time. No detail has been submitted.

Cumulative impact over time as has already occurred.

Cumulatively the development will result in increased traffic movements on the strategic R393. A traffic and transport assessment has not been submitted. It is policy to protect such routes from the intensification of use or existing accesses. It will reduce the strategic importance of the route.

It is not clear where the surface water drainage is directed to but there is a drainage channel to the north which outfalls to the Royal Canal 400m to the east of the proposed site.

The surface water that will result as a consequence of the proposed development and the cumulative impact as a consequence of previous planning applications has not been assessed by the applicant or by the planning authority. The environmental consequences of the same have not been assessed properly having regard to the proximity and the hydrological link to the Royal Canal NHA.

6.2. Applicant Response

6.2.1. The applicant response includes:

- The issues were considered by the planning authority.
- The appellants submissions against development in a number of cases, suggests a pre-disposition against any kind of development on this site, whether or not it is compatible with the proper planning and sustainable development of the area.
- Planning permission exists on the site for a car dealership complete with showroom. The application provides for a replacement showroom. There is no expansion or intensification.
- The previous Board refusal was for a significant expansion. The context was fundamentally different. Peter Hanley Motors has been operating here since 1999. The proposed revamp will not result in any perceptible impact on the neighbouring property and is in accordance with the Longford County Development Plan 2021 – 2027.
- Within 1km of the proposed development there are: an additional car showroom (041253), another car sales establishment (18299), an electrical goods store (1833), as well as a hunting goods store. The neighbouring house and another house c380m distant are the nearest residential properties.
- Noting that per the development plan it is a non-conforming use and that proposals for the expansion, improvement, or alteration of such uses will be considered on their individual merits. The development constitutes an 'improvement', and is not an intensification. It is a reorganisation and improvement rather than an expansion. The previous Board decision related to an extension onto 4,547m² of agricultural land to the east north-east of the appellant's property. The current proposal is on brownfield land. The proposed building is a nominal 21m² bigger than the existing. The current layout includes a limited display apron in front of the older sales building, which is not in keeping with industry requirements. By relocating the building back from the current building line, it will create a more attractive frontage, whilst improving circulation and access of the R392. The addition of new

spaces to the front of the site displaces those where the new building does not exist at present. It is evident from the plans that the proposal therefore represents a rearrangement rather than intensification. The operational premises will remain as permitted under 22/218.

- The supplementary information sheet provided with the application confirms that no additional traffic will be involved. The 200 spaces remain as at present and the applicant is happy to accept a condition to that effect. The business has over 150 cars in stock at any given time. Brexit and changes in the supply chain management, mean it is common to hold this number.
- There will be no additional traffic impact on residential amenities.
- No expansion is proposed, therefore no impact on noise or light pollution. There is an existing mature treeline between the residential property and the proposed development. The showroom will be relocated further away from the dwelling; no impact on residential amenity. There is no intention to undertake any future development to the southeast.
- No traffic issues arise. There will be no uplift in vehicle trips. The entrance is safe. The proposal does not create a new access or intensify an existing one.
- Re. surface water, the planning officer noted that the surface water was to be discharged to existing watercourse. The site layout shows existing 450mm drainage channel, first permitted in 2012 (Ref 11/5), and has been deemed acceptable throughout subsequent applications. As a brownfield site, there is no appreciable increase in hard standing area. The existing drainage is more than adequate to cater for the proposed development.

6.3. Planning Authority Response

6.3.1. The planning authority have not responded to the grounds of appeal-

7.0 Assessment

7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment, the principle of the development, surface water drainage and residential amenity, and the following assessment is dealt with under those headings.

7.2. **Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that 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.

7.3. **Principle of the Development**

- 7.3.1. The proposed development is located on a regional road of strategic importance where the policy objective (CPO 5.19) is to protect the capacity of such routes from further access creation and the intensification of existing accesses. The proposed development would only be acceptable in principle if it were demonstrated that the proposed development would not intensify the use of the access.
- 7.3.2. The proposed development is located in a rural area where the policy is to support vibrant rural communities focused around a network of rural towns and villages, similarly the Regional Strategy includes an objective (RPO 4.82) that economic development that is urban in nature should in the first instance be located in urban areas.
- 7.3.3. The applicant makes the case that the operational premises will retain the same, and vehicular traffic numbers will be as permitted by the planning authority under ref. 22/218. The Board will note that the current site has been considerably extended since the previous appeal, considered by the Board in 2018. The planning history indicates that the development, which is referred to in the response, as approved by the planning authority under 22/218, did not extend the operational premises. However, 21/199, which granted retention for 'recently constructed concrete yard for the storage of vehicles which is an extension to an existing tarmac surfaced car park', has extended the operational premises.
- 7.3.4. In the development on site, a limited area of what appears to be currently used for visitor parking, is located to the front of the subject building. The proposed development would create a significantly extended area, for vehicle display, between the road and the new building. As pointed out in the applicant response to the appeal, the building footprint will not represent a significant increase, however the display area, by being provided adjoining the regional road, would significantly

increase commercial activity on the site. Providing the display area forward of the building would intensify its use for vehicle sales. This is evident from the proposal to demolish a structurally sound building.

- 7.3.5. An intensification of a nonconforming use would only be acceptable in principle if it were demonstrated that the proposed development would not be detrimental to the amenities of the surrounding area and was consistent with the proper planning and sustainable development of the area.
- 7.3.6. In my opinion this has not been demonstrated.
- 7.3.7. Notwithstanding the attachment of Roads Form 1 to the application, and the response to the grounds of appeal which states that traffic will not increase as a result of the proposed development, the proposed development is an expansion of the business and is likely to intensify the use of the access. The intensification of use of the access is contrary to policy objective CPO 5.19.
- 7.3.8. The expansion of commercial development in a rural area occurs at the expense of the towns, such as Ballymahon, where economic development should be channelled.
- 7.3.9. In my opinion the proposed development is unacceptable in principle.

7.4. Surface Water Drainage Arrangements

- 7.4.1. Surface water drainage has been raised as a concern in the grounds of appeal. The appellant states that there is a drainage channel to the north which outfalls to the Royal Canal NHA 400m to the east of the site. In response the applicant states that the surface water drainage will connect to an existing drainage pipe within the site.
- 7.4.2. Reference to connecting the surface water to a drain within the site is not an adequate response to the issue. The outfall of the existing on-site 450mm pipe is not documented in the application or the response. For a development of the scale of that existing and proposed it would be a reasonable expectation that this issue would be addressed more comprehensively.

7.5. Residential Amenity

- 7.5.1. The amenity of the adjoining residential dwelling has been raised as a concern in the grounds of appeal.
- 7.5.2. The concerns raised relate to both the existing development and its intensification.
- 7.5.3. In the previous Board decision impact on residential amenity was a reason for refusal. In that case the proposed development extended along the rear boundary of the residential property. In the present case the proposed development is along the side boundary of the residential property and would have the effect of increasing use / activity on the subject site to the rear of the adjoining dwelling. As pointed out by the appellant, however, the level of activity on the subject site already impacts on their residential amenity. The increase in activity / impact arising from the proposed development may therefore be marginal but is nevertheless of some concern.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that the planning application be refused for the following reason and considerations.

9.0 Reasons and Considerations

1 It is a policy of the planning authority as set out in the Longford County Development Plan, 2021 – 2027 to channel development which is not related to agriculture or the rural economy into settlements in order to support vibrant rural communities focused around a network of rural towns and villages. The proposed development which constitutes a significant expansion and intensification of a non-conforming use in this rural area would undermine this policy and would be contrary to the proper planning and sustainable development of the area.

2 It is a policy objective of the planning authority as set out in the Longford County Development Plan, 2021 – 2027 to protect routes of strategic importance within the County from intensification of use of existing accesses. The proposed extension to the existing commercial development, which constitutes a significant intensification of use of the existing access, would undermine this policy and would

accordingly be contrary to the proper planning and sustainable development of the area.

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.

Planning Inspector

4th March 2024

Appendices

Appendix 1 Photographs

Appendix 2 Longford County Development Plan 2021-2027, extracts

Appendix 3 Eastern and Midlands Regional Assembly Regional Spatial Economic Strategy 2019 – 2031 extracts.

Appendix 4 - Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	317761
Proposed Development Summary	the construction of a showroom building and all associated site works and the demolition of a showroom to the south-west of the proposed building.

Development Address	the townlands of Tirlickeen & Moneyfad, Ballymahon, Co. Longford,		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	/
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	/		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No	/	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	/	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____