



An
Bord
Pleanála

Inspector's Report ABP-318347-23

Development	Construction of a building for the inspection of vehicles.
Location	Castlebar Retail Park, Breaffy Road, Castlebar, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	221128
Applicant(s)	MDS Commercial Centre Europe Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First
Appellant(s)	Maryland Residents Association
Observer(s)	None
Date of Site Inspection	11/04/2024
Inspector	Darragh Ryan

1.0 Site Location and Description

- 1.1.1. The existing site is stated to be within “Castlebar Retail Park” off the Breaffy Road, Castlebar Co. Mayo. There is an existing large HGV commercial property on site, that sells and repairs vehicles. There is an adjoining vehicle impound service that operates on behalf of An Garda Siochana. There is also a vehicle sales yard, a vehicle wash, and a DOE centre. The site area is stated at 0.26ha for the red line boundary.
- 1.1.2. The site is accessed via “Castlebar Retail Park”, which is accessed off the Breaffy Road east of the site. This is the primary access for the site and customers for the DOE centre and prospective purchasers access the site from this location. There is another possible access to the site through a controlled access through the “Goldenmile Estate” to the north, this access requires movement through another commercial development which appears to be occupied by Corduff Travel. This business appears to operate as a facility for the management of buses. The gates between the two sites were closed on the day of the site inspection. There are other industrial uses further north on site.
- 1.1.3. To the north west of the site is the Maryland estate a residential development. There is a buffer of trees between the proposed site and the estate. The nearest residential dwelling to the proposed new building is 100m. The site of the proposed shed backs onto Irish Rail railway track, Castlebar to Dublin line.
- 1.1.4. To the east of the site is Castlebar Retail Park where there are a number of commercial properties. The site is stated to be accessed off Breaffy Road.

2.0 Proposed Development

Construct a building for inspection of vehicles. (649.68m²)

3.0 Planning Authority Decision

3.1. Decision

The planning authority issued a decision to grant permission following a request for further information. The requested additional information sought clarification on a

number of points including, clarification of nature of use and any linkages into the Goldenmile Industrial Estate and the requirement for the submission of a noise survey. Following receipt of further information, the planning authority issued a decision to grant permission. The conditions of note include:

C3 – Access to the facility for all operations shall be via the existing main entrance only

C4 – Noise levels shall not be exceed sound pressure limits as follows: Daytime 55dB(A) and Night Time 45dB (A)

C5 – Hours of operation for all activities on site

C6 – Clarification of use of facilities

C9 – Contributions levied of €12,993.36

3.2. Planning Authority Reports

3.2.1. Summary of Planning Reports

The first planning report requested additional information regarding several aspects of the proposed development, including a revised site layout indicating all site uses, detailed parking bay plans, documentation regarding land ownership, specifics about direct linkages to nearby areas, surface water management plans, a noise survey, and clarification regarding discussions with Iarnród Éireann. It was noted that there were planning enforcement files related to activities in the vicinity, primarily in the Golden Mile Industrial Estate, which shares ownership with the applicant.

The applicant provided revised site layouts clarifying building usage, ownership documentation, legal access details, opening hours, and surface water drainage plans. A noise survey report was also submitted and deemed satisfactory.

Considering these updates, the planning authority recommends granting permission for the development.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

Commission for Railway regulation – advice notes regarding road -rail interfaces on access routes and consultation with Iarnród Éireann.

3.4. Third Party Observations

There are 9 valid submissions on file. These are largely reflected in the appeal and are outlined in greater detail under Section 6.0 below. The central issues outlined are as follows:

- Zoning not compatible with proposed use
- Access arrangements
- Traffic concerns
- Flooding issues
- Noise nuisance
- Opening Hours
- Air Pollution
- Wrong address given in the public notices.
- Previous application in July – yellow site notice not required.
- Lack of landscaping
- Proposal is IPC licensable proposal.
- Fire Safety concerns
- Non – compliance with previous permissions

4.0 Planning History

Existing Site

- Planning Reference 22/590 –Section 5 Declaration: Store/ Park vehicles under Section 41 of the Road Traffic Act on Behalf of Garda Siochana issued on the 16/8/22.
- Planning Reference 03/2246 – Permission granted on 18/11/2003, Construct test centre to include light and heavy goods vehicles in accordance with Department of the Environment & Local Government specifications, also including truck repair workshop and connection to services and associated site works.
- Planning Reference 19/401 – Granted 19/08/2019 – Permission granted for the erection of Renault Signage
- Planning Reference 11/211 – Granted 4/11/2011 – Retain lean-to on north east elevation, second floor plan, minor alterations to layout of existing D.O.E Test centre, light and heavy goods vehicles and truck repair workshop granted under P03/2246

Retail Park – east of the site

- 00/2319 – Parent Permission granted on 30/04/2001 for the construction of retail park.
- 03/2242- Permission granted on 16/10/2003 for revisions of site layout and buildings from previously granted development

5.0 Policy Context

5.1. Development Plan

Mayo County Development Plan 2022 – 2028

Objective SS013- The land use zoning provisions of the existing town and environs development plans for Ballina, Castlebar and Westport shall continue to be

implemented on an interim basis until such times as local area plans are adopted for these towns, whilst also having regard to any draft local area plan, and subject to compliance with the provisions of the Mayo County Development Plan, including the Core Strategy population/ housing targets.

5.2. Natural Heritage Designations

River Moy SAC – 5.6km to the east

5.3. EIA Screening

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

This is a third-party appeal against the decision of Mayo County Council to permit the development. There is one appellant on file, Maryland Residents Association from the Maryland residential estate north west of the site. The grounds of appeal can be summarised as follows:

6.1.1. Failure to apply the relevant sections of the Planning and Development Regulations

- The applicant failed to identify the correct location of the proposed development under Sections 17 -19 of the Planning Regulations. The appellant contends that the third party purposefully sought to incorrectly identify the correct site location.
- The applicant failed to have a valid site notice relating the development as required under Section 19 of the Planning Regulations.

6.1.2. The planning authority have not correctly applied the policies in the draft Castlebar Local Area Plan 2023-2028 in their assessment- LUZ 5 relates to “Existing

Residential Amenity” the text of which identifies than an objective of the council is to protect and improve the amenity and character of the existing residential areas.

- 6.1.3. The applicant is using the planning application process to give “de facto” planning permission for another development not forming part of the original planning application thus circumventing the public consultation process – There is a sales service in operation on the site for the sale of HGV’s, no permission has been sought for this use, the planning authority has just accepted this as an acceptable use.
- 6.1.4. The applicant availed of a section 5 exemption in July 2022 under reference 22/590. This exemption related to a new service provided by the applicant with regard to the impounding of a vehicles on behalf of An Garda Siochana. This impound area is at a different location to what was agreed under the Section 5 application. Through the provision of site layout and details of access/egress arrangements through the site, the applicant is seeking de facto planning permission for this unauthorised use.
- 6.1.5. The applicant has failed to adequately respond or has inaccurately responded to several points of further information requested by the planning authority as part of the further information request issued on the 16th of February 2023.

6.2. Applicant Response

None

6.2.1. Planning Authority Response

None

6.3. Observations

None

7.0 Assessment

- 7.1.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site and having regard to the relevant national and local policy guidance, I consider the main issues in relation to this appeal are as follows:

- Use of Development for HGV sales
- Impact on Residential Amenity
- Other Matters
- Appropriate Assessment

7.2. Use of Development for HGV Sales

- 7.2.1. The applicant has submitted details outlining that the proposed new building is to be used as a vehicle pre delivery inspection building, where new resale vehicles are checked prior to handover to clients. The appellant contends that the use for the sale of vehicles is an unauthorised use and would not be in accordance with the development descriptions and would give “de facto” permission for an unauthorised use on site. Furthermore, it is put forward by the appellant that the address provided in the application is incorrect and the correct address is Goldenmile Industrial Estate. The lands of the subject site are zoned Enterprise and Employment.
- 7.2.2. On the day of site inspection, a large number of vehicles HGV’s/ Vans were in the site and identified for sale. I consider this to be the central issue in the appeal. The planning authority has not raised any concerns regarding the sale of vehicles or concerns with regard to adequate permissions been in place for the sale of vehicles. The other existing permitted activities on the site primarily revolve around light industrial operations or activities associated with vehicle inspection for Department of Environment (DOE) purposes, or vehicle repair. The substantial presence of vehicles, including HGVs, on-site suggests a significant commercial enterprise involved in vehicle sales.
- 7.2.3. Permission was authorised for the retail park to the east of the site under planning reference number 00/2319. The site layout submitted with this application did not encompass the area currently occupied by Shaws Commercials. The area for which a retail park was granted is clearly set out within red line boundary and site layout plan of parent permission 00/2319. I do not consider the area now under Shaws Commercials made up any part of original permitted planning application for the retail park.
- 7.2.4. Planning reference 03/2246 subsequently granted permission to Shaws Commercials for the construction of a Department of Environment (DOE) centre. The

address provided within this application is “Saleen, Breaffy Rd”. Although access to this site was approved via Castlebar Retail Park, it is evident from the submitted documentation that this development was distinct from the Retail Park, serving as an independent facility for vehicle testing and repair related to DOE services. Given this site history, I deem it appropriate to classify the site as part of the adjacent Goldenmile estate rather than as an extension of the Retail Park, agreeing with the appellant on this particular issue. This classification carries implications, particularly concerning the sale of vehicles. The sale of vehicles would in my view have an existing permission if within the retail park, however as it is located outside of the retail park a separate planning permission is required.

- 7.2.5. The sale of vehicles is not an exempted development category as set out under the Planning and Development Regulations, I do consider a specific planning permission is required for the sale of vehicles in this instance as the development is located in the Industrial estate and not Castlebar Retail Park. The applicant has clearly stated within the application that the proposed use is with regard to inspection of vehicles as part of the sales service offered on site. Having regard to the foregoing, I consider that granting approval for a unit dedicated to vehicle inspection for resale vehicles, would essentially consolidate an unauthorised use on the site. The proposed development as set out is completely dependent on the use of the site for the sale of vehicles.

Having regard to the above I do not consider it appropriate that permission be granted in this instance owing to existing unauthorised use on site.

7.3. Impact on Residential Amenity

- 7.3.1. The appellant contends that the proposed development will significantly detract from the amenity of neighbouring residential properties, particularly those in the Maryland Residential estate. It is argued that the planning authority failed to consider the objectives outlined in Land Use Zoning 5 (LUZ 5) of the Mayo County Development Plan, which aims to safeguard and enhance the amenity and character of existing residential areas. The appellant highlights the diverse uses of the site and the extended operational hours of the applicant's Garda vehicle impound business, leading to considerable noise disturbances for nearby properties. Furthermore, it is claimed that the applicant has removed natural boundaries, enabling internal access

between the Goldenmile Estate and Retail Park, and has replaced grassed and landscaped areas with additional hardstanding and parking facilities.

- 7.3.2. Having regard to the Garda Vehicle Impound service offered on site, this facility was subject to Section 5 Declaration issued by Mayo County Council. It was determined that this development was considered exempt. The Garda Vehicle Impound Service is not within the scope of the appeal.
- 7.3.3. The applicant asserts that no additional planting is proposed between the proposed site and the residential development, citing the existing substantial level of vegetation. However, they have submitted a noise survey indicating that noise levels associated with all activities on site are managed to an acceptable standard. Additionally, the planning authority imposed a condition to restrict daytime and nighttime noise levels on site.
- 7.3.4. Regarding landscaping, there is a significant boundary of hedging and trees between the proposed site and the Maryland estate to the north. This vegetation, comprising large mature trees, serves as a substantial visual buffer from the residential estate. While acknowledging details concerning ash dieback, it is deemed appropriate for the applicant to provide a planting schedule outlining trees for removal and proposals for replanting over a specified timeframe. Given the current level of screening on site and the distance of the proposed new build from the residential estate (100m), I do not consider the screening/ planting between boundaries a substantive issue that warrants a refusal in this instance.
- 7.3.5. The noise survey submitted with the application is deemed sufficient to ascertain ambient, background, and residual noise levels. It indicates that the noise associated with the existing facility is 48 dBA, primarily attributed to road traffic vehicles accessing and idling on site. The proposal is anticipated to have minimal impact on the current noise environment, as operational noise will primarily consist of traffic movements and low-intensity indoor processes. It is concluded that the proposal will not significantly exacerbate noise levels experienced by neighbouring residential estates, which are deemed typical for a suburban setting.
- 7.3.6. In evaluating residential amenity, I find that the planning authority adequately considered the assessment of noise and visual impact. The conditions imposed by the planning authority in relation to noise in my view are reasonable and appropriate

to address concerns of noise levels. Where it is deemed appropriate to grant permission in this instance, I recommend an additional condition be applied recommending additional planting along boundary to ensure adequate screening is maintained. Other factors such as traffic will be evaluated in section 7.4 below. Considering the anticipated impact of the proposed development on the amenity of neighbouring residential properties, I do not deem the impact to be exceptional, given factors such as site zoning, the nature of use, and the distance of the site from neighbouring residential development.

7.4. Other Matters

Access & Traffic

- 7.4.1. The appellant contends that the applicant has established an internal access within the estate for movement between the Goldenmile Estate and Castlebar Retail Park, thus allowing connectivity between two commercial enterprises in the ownership of the applicant. This practice was previously prohibited under previous planning permissions. The access through the "Goldenmile Estate" to the north intersects with another commercial property, namely "Corduff Travel," a bus company adjacent to Shaws Commercial property to the south. During the site inspection, the gates between the two sites were found closed. Upon examination of the documentation provided in response to the further information request, it is confirmed that both premises operate under distinct ownership and function as separate businesses. While there is a slight overlap in car parking between the sites, I do not deem this significant due to the industrial and vehicular nature of activities between them.
- 7.4.2. Mayo County Council deemed it appropriate to impose a condition on the granting of permission, restricting access to the facility solely via the existing main entrance - this access is through the Castlebar Retail Park as permitted under parent permission 03/2246 for the DOE centre. I find this condition suitable for addressing any concerns regarding secondary access. Considering the aforementioned points, I do not perceive the issues raised by the appellant regarding secondary access as substantial, nor do I believe they will negatively impact the amenity of neighbouring residential properties, given that access can be regulated through condition.

7.5. Appropriate Assessment

- 7.5.1. I have considered the proposal to construct new vehicle inspection building in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located within an industrial estate on zoned land 5.6km east of the nearest European Site, River Moy SAC. The proposed development comprises Construction of a building for the inspection of vehicles.

- 7.5.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- small scale and nature of the development]
- Location-distance from nearest European site and lack of connections

- 7.5.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

8.0 Recommendation

Having regard to the above I consider that permission be refused for the following reason:

9.0 Reasons and Considerations

On the basis of the submissions made in connection with the planning application and appeal, it appears to the Board that the proposed development relates to a site the use of which is unauthorised for the carrying on of sales of vehicles and that the proposed development would facilitate the consolidation and intensification of this unauthorised use. The proposed development as set out is dependent on the use of the site for the sale of vehicles. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.

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.

Darragh Ryan
Planning Inspector

12th of April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318347-23			
Proposed Development Summary	Construction of a building for the inspection of vehicles.			
Development Address	Castlebar retail Park/ Goldenmile Industrial Estate			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		Yes	X	
		No		
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.....		
No	X		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	X	N/A		No EIAR or Preliminary Examination required
Yes				

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	318347-23	
Proposed Development Summary	Construction of a building for the inspection of vehicles.	
Development Address	Castlebar retail Park/ Goldenmile Industrial Estate	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is located in an urban location with significant levels of industrial type development. The proposed development is not exceptional in the context of existing environment.</p> <p>No not exceptional in the context of existing industrial environment</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>No the red line boundary of the site remains the same. There is no extension to boundary as a result of proposed development. The site area is .26ha.</p> <p>There are no other developments under construction in proximity to the site. All other development are established uses.</p>	No
Location of the Development	The proposed development is located 5.6km east of the River Moy SAC. The proposal includes	No

<p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>standard best practices methodologies for the control and management of surface water and waste water on site.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

