



An
Bord
Pleanála

Inspector's Report

ABP 318467 - 23

Development

Change of use from previously granted 'coffee shop/sandwich bar together with signage' to fast food take away and associated signage, together with connections to all existing services including all ancillary site development works.

Location

Unit 1, Tara Court, Kilmessan, Co. Meath.

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

23/723

Applicant(s)

E.T. Takeaway Shop Limited.

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Mohammed Abbas.

Observer(s)

None.

Date of Site Inspection

27/02/2024.

Inspector

Aisling Dineen

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy and Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations	7
5.3. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Applicant Response	8
6.3. Planning Authority Response	9
6.4. Observations	10
6.5. Further Responses.....	10
7.0 Assessment.....	10
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	14
10.0 Conditions	14

Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The site is situated within the village of Kilmessan, Co. Meath. The established building is on the Main Street of Kilmessan in a development known as Tara Court. There is another retail use established within the same building to the north of the subject premises with pharmacy signage, however this unit was closed at the time of inspection (It is unclear if this business is still in operation). Monto's restaurant and takeaway is situated on the adjacent site to the south.

2.0 Proposed Development

- 2.1. It is proposed to change the use of an existing ground floor coffee shop/sandwich bar to use as a fast-food take-away. The proposal comprises some ground floor reconfiguration in relation to construction of internal walls for a walk-in fridge and freezer and a storage and toilet space. The low noise extractors and ventilation duct are to be placed on the external wall/south façade.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to grant planning permission on the 23rd October 2023 subject to 14 No conditions, which are of a generic nature.

Condition No 3 relates to opening hours.

The Chief Executive's decision reflects the planner's report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The site is within the urban boundary of Kilmessan where the zoning objective B1 aims to *'protect, provide for and/or improve town and village centre facilities and uses'*. The subject commercial unit is vacant.

- Further information was requested relating to days/hours of operation/signage proposals/noise and nuisance relating to odours. The responses were deemed to be satisfactory subject to conditions.
- Development Contribution not applicable.

3.2.2. **Other Technical Reports**

Transportation Department

- The proposed development is within the 50 kph speed limits. Adequate car parking spaces are provided behind the building, with on street parking and drop off spaces to the front.
- The proposed change of use from coffee shop/sandwich bar will not create any greater parking demand for the development.

3.3. **Prescribed Bodies**

Environmental Health Service, HSE, report dated: 22nd August 2023

- Relating to apartments in close proximity, it is noted that the extraction system for the ventilation system is to be located internally with noise suppression and that low noise extractors for the fridge and freezer units are to be externally located. The applicants should submit noise data from the manufacturers of these units to demonstrate that they will not cause noise nuisance to residents in the vicinity.
- The applicants should submit details regarding odour emissions.
- Submit evidence to demonstrate that the grease trap has capacity to cater for the proposed development.
- Details of a designated waste storage area to be provided.
- Details relating to energy efficiently and sustainable use of water to be submitted.
- Applicants to liaise with Local EHO.

Post FI reply Environmental Health Service, HSE, report dated: 18th October 2023

- There is a block boundary wall between the noise source and adjacent residential building. The EHS is of the opinion that noise emissions will comply with the WHO recommendations.
- Regarding odours 2 methods of extraction are submitted. The ventilation duct stack height will be 600 mm above the peak of the adjoining building. Routine cleaning and maintenance forms part of odour control strategy.
- Additional grease traps are proposed.
- Regarding waste it is proposed to reinstate a waste storage area to the rear of the premises. Waste will be collected on a weekly basis.
- The applicant met with the EHO to discuss the kitchen layout and food hygiene requirements.
- Energy efficiency and water conservation measures to be agreed with the planning authority.

3.4. Third Party Observations

None

4.0 Planning History

TA 30227 Planning Permission for retention granted for the following: Roller shutters to shop fronts, retention of 2 x No 1 bed apartments, which incorporates internal alterations to elevations and to include 4 No off street parking spaces, the above are alterations to grant of planning permission register number P00/1133.

5.0 Policy Context

5.1. Development Plan

Meath County Development Plan 2021-2027

Zoning The appeal site is zoned 'B1 – Commercial Town or Village' under the Meath County Development Plan 2021 – 2027.

The use 'takeaway' is a permitted use. The proposed development is therefore consistent with this zoning objective.

Section 11.6.2 Fast Food / Takeaway Outlets

This section of the Development Plan states that fast food outlets have the potential to cause noise, littering and can detract from the amenities of an area. Therefore, proposals for new or extended outlets will be carefully considered, particularly in locations where a proliferation of such uses already exists.

DM POL 17: To assess the appropriateness of any proposal for a new or extended takeaway/fast food outlet on the potential cumulative effect of these uses on the amenities of an area and schools.

DM OBJ 55: To require that all proposals for new or extended fast food/takeaway outlets address the following as part of any pre-application discussion or planning application documentation:

- The cumulative effect of fast-food outlets on the amenities of an area.
- Opening/operational hours of the facility.
- The location of vents and other external services.
- Advertising signage.
- External seating.

5.2. Natural Heritage Designations

The River Boyne and River Blackwater SAC (Site Code 002299) and River Boyne and River Blackwater SPA (Site Code 004232) are situated c. 4.5 km north of the site.

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, 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

- The proposed development is next door to Mohammed Abbas's restaurant and is inconsistent with the proper planning and sustainable development of the village of Kilmessan.
- There are already 3 No takeaway food outlets operating in the village of Kilmessan, namely Monto's restaurant, Fergie's Bar & Restaurant and the Centra Convenience Store. There is not sufficient business in the village to sustain a fourth.
- Kilmessan would become a food and drink destination and not a mixed-use commercial location, with 4 No similar operations in such close proximity.
- The application has no details submitted regarding anti-social behaviour.

6.2. Applicant Response

- The applicants provide fast food take aways throughout Co. Meath and have the highest standards.
- The proposed development is very much inconsistent with the proper planning and sustainable development of Kilmessan village as evidenced in Meath County Councils decision to grant planning permission.
- Regarding the submission that 'There are already 3 takeaways in the village', the board is requested to consider the following: Monto's restaurant is predominantly a slow food take away service and its' menu is totally at odds

with the applicant's fast food type menu, with fish n chips etc., Fergie's Bar and Restaurant is essentially a pub, which serves food. Its kitchen hours are Mon – Fri from 4.30 to 8.30 pm and Sat & Sunday from 11 am to 8pm. They provide an evening service with their menu but it characteristically at odds with what is proposed. Centra Convenience store operates a delicatessen and serves hot food until just 3 pm each day.

- Kilmessan is a mixed-use village. A list of business operating in the village is provided.
- The 2022 census gives Kilmessan a population of 907 people. A similar village of Summerhill with a population of 947 has 5 No similar food outlets. All have operated for over 10 years and there has been sufficient business to sustain same.
- Kilmessan is a central point for surrounding villages such as Bective, Robinstown, Dunsany and Kiltale and it is proposed that the proposed take away would extend services to these locations.
- The subject premises has a food licence for a café granted in 2006. This licence allowed operation any time outside 12 am to 7 am.
- Meath County Council did not raise any issues regarding anti -social behaviour and it is submitted that Kilmessan does not have a reputation for bad anti-social behaviour. When anti-social behaviour occurs at take aways it generally occurs late at night after 12 am and is generally associated with disco/late bars. The licence for the proposed take away food requires closure at 12 am and there are no disco/late bars in the village. The applicants have operated traditional take aways/fast food business for 40 years and there have never been any criminal charges relating to anti-social behaviour.

6.3. Planning Authority Response

- The planning authority is satisfied that all matters outlined in the appeal were considered in the course of its assessment in the planning officers report.
- The Board is respectfully requested to uphold the decision of the planning authority.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. Having examined all the application and appeal documentation on file and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authority's decision to grant planning permission. I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Principle of Development
- Residential Amenity
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

7.3. The proposed development consists of the change of use from a coffee shop/sandwich bar to a fast food take away in the town of Kilmessan. The primary issue against the proposed change of use iterated under the appeal document states that there are already three take aways operating in the village and that to permit this change of use would make Kilmessan and food destination as opposed to a mixed-use destination.

7.4. I note that the appeal site is zoned B1 – Commercial Town or Village' under the Meath County Development Plan 2021 – 2027. I also note policy pertaining to such a use is clearly expressed under Section 11.6.2 *Fast Food / Takeaway Outlets* of the Development Plan. This policy requires that such proposals be assessed under the following headings: 1. The cumulative effect of fast-food outlets on the amenities of

an area, 2. Opening/operational hours of the facility, 3. The location of vents and other external services, 4. Advertising signage and 5. External seating.

- 7.5. Regarding the issue of cumulative effect of fast-food outlets, I note the submission made under the appeal regarding other stated fast food related uses in Kilmessan. However, I concur with the applicant's response in that the delicatessen use as part of Centra could not be described as a fast-food outlet akin to what is proposed, notwithstanding its provision of hot food. I also concur that Fergie's Bar and Restaurant, offers 'pub grub' and while it may provide for take aways it could not be described as a fast-food outlet akin to what is proposed either. Regarding Monto's which is positioned adjacent to the proposed take away, I consider that this is a restaurant with a take-away service, which is a similar fast-food take-away service to the proposed offering, notwithstanding that the subject proposal is for a traditional *Fish n Chips* style take away. However, I do not consider that there is an overall prevalence of fast foot outlets in the village and that to permit the subject change of use, would alter the mixed-use nature of the village or of its zoning objective.
- 7.6. Regarding operational opening hours, I consider that the planning authority addressed this issue by way of Item No 1 under the further information request and it also applied Condition No 3 under its notification of decision to grant planning permission, which is considered reasonable. Therefore, I am of the viewpoint that this issue can be addressed by way of condition, should the board be mindful of a favourable decision.
- 7.7. Regarding the other issues as cited under section 11.6.2 of the plan, namely; the location of vents and other external services and advertising signage, I am satisfied that the planning authority adequately addressed these issues, and the residential amenity impacts will be discussed under para 7.9 below. It is noted that external seating is not proposed under this application and therefore does not form part of this assessment.
- 7.8. It was observed on the date of inspection that the subject unit was closed up and shuttered and as such appears vacant. Therefore, the appearance of shuttered – closed up unit does not add to the attractiveness and vibrancy of this area presently.
- 7.9. The applicant in its appeal response compares the village of Kilmessan with other similarly sized villages, which have more fast-food offerings. This submission also

states that the proposed catchment for this fast-food service extends to outlying villages and is not solely confined to the population of Kilmessan.

7.10. Regarding the principle of the proposed new take away use at this location, it is considered that the use would be reasonable and appropriate, and given the zoning, is a permitted use in this location. In my viewpoint, it would not amount to excessive take away use facilities in Kilmessan. Therefore, I conclude that the proposed development is acceptable in principle and complies with zoning objective B1, which aims to protect, provide for and/or improve town and village centre facilities and uses.

7.11. Residential Amenity

7.12. The two salient issues regarding residential amenity associated with fast-food outlets relate to noise and malodour. It is noted that there are two detailed reports on file from the Environmental Health Service (EHS) in the HSE, and that further information as requested on foot of the first HSE (EHS) report was received and the response was also reviewed by the HSE (EHS). It is also noted that a site inspection by a HSE official was carried out in September 2023. These detailed reports reasonably informed the planning authority's decision to grant planning permission.

7.13. Regarding noise generated by the ventilation system, two units are proposed. One is proposed to be located internally and the proposed unit for the fridge and freezers are proposed to be located externally. Both sources together would emit in 59dB (a) at 1 metre and 39 dB (A) at 10 metres. The EHS report notes a block boundary wall between the above noise sources and the adjoining building, which would amount to further noise attenuation. The EHS report concludes that noise emissions from these sources will comply with WHO noise recommendations.

7.14. Regarding the control of odour, 2 mechanisms are proposed; a fan system with 'fat boxes' for collection and control of odour and a ventilation duct, which will have a stack height 600 mm above the peak of the adjoining buildings

7.15. It is considered that the details submitted regarding the control of noise and odour are acceptable and should be implemented. Accordingly, it is not considered that the residential amenities of the village or adjacent properties will be negatively impacted by the proposed use.

7.16. Other Issues

7.17. An area for the collection and storage of waste is to be 're-established' at the rear of the building and a regular collection service is proposed. This is considered to be reasonable.

7.18. The Transportation Section have agreed that adequate parking spaces have been provided to the rear of the building with on street parking and drop off spaces to the front. It is also noted by the said section that no further parking spaces are required for the proposed use over the established use. This is considered to be reasonable.

7.19. The issue of anti-social behaviour has been raised under the appeal submission. The planning authority did not raise this as an issue for Kilmessan. The response to the appeal indicates that the proposed opening hours are not considered to be 'late night' hours and generally anti-social behaviour occurs after clubs/late bars and there is no such establishment in Kilmessan. I am of the viewpoint that there is no evidence or information on the planning file to give rise to such concerns regarding anti-social behaviour in Kilmessan. However, I note that the condition regarding opening hours should allay such concerns.

7.20. Appropriate Assessment

7.21. Having regard to the nature and small scale of the proposed development, which is change of use from coffee shop to takeaway with minimal physical changes, in an established urban and serviced area; and the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, 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**

8.1. I recommend that permission is granted in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the provisions of the Meath County Development Plan 2021-2027, including the 'B1 – Commercial Town or Village' zoning that applies to the site, the location of the site within an established town centre setting, and the pattern of development in the surrounding vicinity, it is considered that, subject to the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would not be prejudicial to public health, and 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, 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>The developer shall control odour emissions from the premises in accordance with measures submitted under the application and further information response.</p> <p>Reason: In the interest of public health and to protect the amenities of the area.</p>
3.	<p>The hours of operation shall be between 1500 hrs and 2300 hrs, Sunday to Thursday and between 1500 hrs and 2330 hrs, Friday and Saturday.</p> <p>Reason: In the interest of the amenities of property in the vicinity.</p>

4.	<p>Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to the operation of the development. This scheme shall include the provision of litter bins and refuse storage facilities.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</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.

Aisling Dineen
Planning Inspector
29 February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318467 - 23			
Proposed Development Summary	Change of use from previously granted 'coffee shop/sandwich bar together with signage' to fast food take away and associated signage, together with connections to all existing services including all ancillary site development works			
Development Address	Unit 1, Tara Court, Kilmessan, Co. Meath.			
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: Aisling Dineen

Date: 29/02/24