



An
Bord
Pleanála

Inspector's Report ABP318839 - 24

Development	5 no. single storey storage units to service existing retail units, associated works.
Location	River Forest Shopping Centre, Captain's Hill, Leixlip, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	2360222.
Applicant	Metropolitan Taverns Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party
Appellant	Claire O'Neill.
Observers	None.
Date of Site Inspection	14 March 2024.
Inspector	Mairead Kenny.

1.0 Site Location and Description

- 1.1. The subject land comprises a vacant plot within and to the rear of River Forest Shopping Centre, an established shopping centre in an inner suburban area in Leixlip.
- 1.2. The site defined as the application site comprises the southern side of the overall shopping centre – the stated site area is 0.430 hectares.
- 1.3. The relevant part of the overall application site comprises a piece of unused lands which is adjacent to the rear of the main supermarket Supervalu and other units and is of stated area of 145 sq.m.
- 1.4. Access to the shopping centre is off Captain's Hill, one of the main roads in Leixlip. There are two access points, the northern one which serves customers and the other, at the southern side of the supermarket / retail / commercial block, a 6m wide service road which provides access to the lands subject of this application and serves the supermarket, a small hotel hotel and the adjacent small units in the shopping centre including a medical centre, butchers and restaurant.
- 1.5. There is some residential use above some of the commercial / retail units to the north of the subject lands. The boundary of the subject area is defined by a block wall which is shared with the school. The supermarket and associated service yard are at the end of the cul de sac / service road.

2.0 Proposed Development

- 2.1. Permission is sought to develop 5 no. single storey storage units.
- 2.2. The units would comprise a 3131mm high building of block construction, finished with plaster and accessed by way of steel double doors.
- 2.3. Each individual unit would be 5035mm by 5535mm in floor area.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 7 no. standard conditions.

Further information was received on 30 November 2023. This responded to a query issued by the planning authority relating to land ownership.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The original report includes the following points:

- Aerial photographs show evidence of a previous building.
- No concerns regarding overbearing.
- Overlooking is not an issue.
- The common boundary with the school would be maintained.
- Development is acceptable in principle.
- Confirmation of ownership is required.
- No potential to significantly impact European sites.
- Development is not a project type for EIA.

The final report recommends permission.

3.2.2. Other Technical Reports

Water Services – no objection subject to conditions.

Transportation – no objection.

Area Engineer – no objection subject to conditions.

Chief Fire Officer – no objection subject to conditions.

3.2.3. Third Party Observations

3 no observations were received by the planning authority. The issues include:

- Ownership
- Inaccurate drawings and inadequate information
- Absence of turning circle
- Zoning
- Overlooking of school and impact on common boundary
- Need for noise assessment to assess impact on residential units.

4.0 Planning History

Reg. Ref. 19/543 – permission granted for modification to SuperValu unit including relocation of new fire escape doors on southern elevation.

Reg. Ref. 17/1231 – permission granted for works and change of use of ground floor unit to medical use.

Reg. Ref. 17/760 – permission granted for works including a single storey extension to south of existing SuperValu unit.

Further details of planning history are as reported in the planner's report on file. I have examined the planning register map in addition and advise that there are no other relevant applications.

5.0 Policy and Context

5.1. Development Plan

Leixlip Local Area Plan 2020-2023 was extended to March 2026. The following applies:

- The site is zoned N – Neighbourhood Centre – the objective of which is 'to provide for new / existing neighbourhood centres and associated facilities'.
- General development management standards of the County Development Plan apply.

Kildare County Development Plan 2023-29 development management standards include:

- Under section 15.1 it is clarified that the granting of permission does not necessarily allow for construction to proceed as there may be other requirements including with respect to property rights.
- Under section 15.9.1 information to be submitted as part of any application for industrial / commercial/ business development shall include provisions relating to storage which shall be to the rear and of height to ensure adequate screening of materials stored. There is also a requirement for compatibility of existing adjacent uses with the proposed development and mitigation measures to preserve and protect the amenity of adjacent uses.

5.2. Natural Heritage Designations

To the north, within 300m of the site is the Royal Canal proposed Natural Heritage Area.

To the southwest within 300 of the site is the Rye Water Valley / Carton proposed Natural Heritage Area.

5.3. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

The main points of the appeal relate to:

- Inaccurate information provided. The 'rear yard' is in fact a building.
- Traffic hazard and disruption.
- Encroachment onto right of way.

- Decision is premature until an ongoing District Court case is decided.
- Noise, hours of construction and amenity impacts.

6.2. Applicant Response

- The storage units will be constructed on existing waste ground. There will be no impact on the SuperValu service area and no interference with access or turning of vehicles.
- The development is not large scale and is intended for use in association with the existing River Forest hotel.
- Revelant maps and folios were submitted as further information.

6.3. Planning Authority Response

Previously prepared technical reports refer. No further comment.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. I consider that the issues relevant to this case can be addressed under the following headings:

- Amenities
- Traffic safety and access
- Legal rights
- Development plan
- Appropriate Assessment Screening.

7.2. Amenities

- 7.2.1. The subject plot of land is situated to the rear of retail and commercial units and adjacent the delivery yard of a supermarket. Regarding the potential for disturbance to occupants of existing residential units overhead the nearby commercial units, I consider that the main concern would relate to early morning / late night noise. I do not consider that a noise impact assessment report would be appropriate having regard to the nature of noise which might arise. Neither is it reasonable to conclude that the traffic generated in association with the proposed storage units would be significant in numbers and / or likely to be disruptive. The proposed storage units are small units and their use would be largely compatible with existing uses served from the service lane. These uses include a large supermarket. The intended use of the proposed storage units is stated to be in association with the nearby commercial units. It is further clarified by way of the response to the appeal that the units would be used in association with the hotel.
- 7.2.2. I consider that it would be appropriate to limit the future use and hours of access to the storage units. This matter should be addressed by condition. The decision of the planning authority included a condition that the storage units use be ancillary to the existing retail units to the north and not be used for habitable use. The potential for adverse noise effects in the event of use as a keg / bottle store in association with the hotel is not captured by this condition. Such effects could include late night activity which could give rise to significant nighttime noise. I recommend that the condition of the planning authority be expanded as set out in condition 2 below. Subject to the attachment of a suitable condition I am satisfied that the proposed development would not adversely impact on residential amenities.
- 7.2.3. I consider that there is no potential for impact on the operation of the school to the south in terms of the amenities and operation of that large educational complex. My comments below relating to the shared boundary wall refer.

7.3. Traffic safety and access

- 7.3.1. I note that third parties reference details regarding the accuracy of the drawings submitted and the available turning areas. The application drawings show that the proposed development would not encroach onto the existing service areas / access

road, and I am therefore satisfied that there would be no adverse effects in terms of accessing the site and undertaking of deliveries. My inspection of the site supports this conclusion.

7.3.2. Regarding access for safety purposes and general fire safety requirements, these are covered under the Building Control Act. As such a planning condition as recommended by the CFO is not recommended under national guidance.

7.3.3. I note the third-party statements to the effect that there is a need for assessment of the traffic impacts of the proposed development including at the junction at Captain's Hill. Having regard to the design of the service road and junction details and the existing use of that road in association with a supermarket together with the small scale of the storage units, I do not consider that there is any requirement for detailed traffic assessment or road safety audits in relation to the junction. Based on the pattern of development and my inspection it is reasonable to conclude that there is limited, if any, non commercial use of the service lane and it can be concluded that there is no danger to pedestrians or other users on the lane.

7.3.4. I conclude that the development is acceptable in terms of traffic safety and access.

7.4. Legal rights

7.4.1. One of the main grounds of the appeal relates to the matter of land ownership. At the outset I refer to the general provision which is set down under section 34(13) of the Planning and Development Act and which provides that a person shall not be entitled solely by reason of a permission to carry out a development. This is reiterated in the Kildare County Development Plan.

7.4.2. The submitted further information includes Registry Map details which show that the relevant lands where the storage units are to be developed is held by Metropolitan Taverns limited under a 999 year lease and that the same leasehold interest is held by Metropolitan Taverns in relation to the small hotel / restaurant at the entrance to the service cul de sac.

7.4.3. The submitted application drawings appear to indicate new block walls along the shared boundary. I am satisfied that the applicant has provided sufficient information to support the legal rights required for the making of the application. The provisions of section 34(13) apply in any case.

7.5. Development plan

- 7.5.1. The development is in accordance with the relevant development plan including the Leixlip LAP and the zoning objective 'N'. I am also satisfied that the design accords with the general approach to good practice as set down under the CDP development management standards for storage.
- 7.5.2. I conclude that subject to attachment of conditions as recommended below, the proposed development would be in accordance with the relevant policy and the proper planning and sustainable development of the area.

7.6. Appropriate Assessment Screening

- 7.6.1. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

- 8.1. I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the nature, extent and location of the proposed development, the policies and objectives of the development plan and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would be acceptable in terms of traffic safety 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 as amended by the further plans and particulars submitted on the 30th day of November 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>The use of the storage units shall be strictly for storage in association with the use of the retail or commercial units or the hotel to the north and shall not be for any other use including residential use. There shall be no access to the storage units between the hours of 2200 and 0700.</p> <p>Reason: In the interest of clarity and to protect the amenities of nearby residential properties.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
4.	<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. The contribution shall be paid prior to the 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</p>

	<p>matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 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.

Mairead Kenny
Planning Inspector

3 April 2024