



Statement of Case for Planning Authority

Appeal under the Planning Act (Northern Ireland) 2011

Application reference: C/2013/0443/F

Proposal: Proposed extension to Unit 17 and variation of condition 7 in planning approval C/2005/1299/F (under Article 28 of the Planning (NI) Order 1991), to permit the sale of convenience and comparison goods in Unit 17.

Location: Unit 17 Riverside Regional Centre Castleroe Road
Coleraine

Submission Deadline: 7th July 2015

Prepared by: (Case Officer) Noel McGowan

Agreed by: (Grade 7) Shane Mathers

Appeal Reference: 2014/A0266

Appellant: Kelvin Properties Ltd

Date of Hearing/ Accompanied Site Visit: 4th August 2015

1.0 Planning Assessment

1.1

The applicant applied under C/2013/0443/F to increase the size of Unit 17 from 929sqm to 1,394 sqm gross floorspace and also to vary the condition 7 of the previous application C/2005/1299/F to allow the sale of convenience and comparison goods.

1.2

The Department's refusal reason under C/2013/0443/F states: The proposal is contrary to the Department's Planning Policy Statement 5, Retailing and Town Centres in that suitable alternative sites in Coleraine town centre are available for retail use.

1.3

The site is part of Riverside Retail Park and is not designated as town centre under the North East Area Plan 2002 (NEAP 2002) and also the Draft Northern Area Plan 2016 (dNAP 2016). The site is within the urban town limits in both Area Plans. Under the NEAP 2002 section 10.0 Commerce, it states that the Department proposed to designate a Central Business District and it goes on to state that the defined town centres in each town are capable of physically accommodating all the anticipated floorspace increases. Under the dNAP 2016 section 4.1.1 it states that the retail function of Coleraine town centre has been strengthened over the previous decade by a number of major retail developments, in particular the Diamond Centre, the town's first enclosed shopping mall. It states that the Plan will provide for the continued commercial strengthening of the town centre. It also states in section 4.1.4 that the plan will seek to ensure that any future

development of the Riverside Centre is complimentary to, rather than competing with, the town centres, and does not adversely affect the vitality and viability of the latter.

1.4

The Planning Appeals Commission (PAC) have stated that the Riverside Retail Park is not a District Centre as the existing retail units are mostly retail warehouses that do not provide convenience retailing or meet a local need. The recent PAC Northern Area Plan Report stated in paragraph 1.6.7 (Section 1) that whilst the Riverside Regional Park has a superstore, a supermarket and other food outlets as well as several restaurants, it does not have non-retail uses such as banks and building societies. The existing retail units are mostly retail warehouses that do not provide convenience retailing or meet a local need. The PAC stated that Coleraine Town Centre is the appropriate location for major retail proposals and comparison shopping and agreed with the Department that designating Riverside as a District Centre would ultimately be detrimental to vitality and viability of Coleraine Town Centre and concluded that it should not be designated as a District Centre. This is important material consideration.

1.5

The Planning Authority contend that Planning Policy Statement 5 is applicable in this instance. PPS 5 provides protection for the vitality and viability of existing town centres. Planning Policy Statement 5 "Retailing and Town Centres" sets out the objectives for town centres and retail developments. According to paragraph 36 of PPS 5, the proposal is classed as major retail development. The original planning permission C/2005/1299/F was allowed on the condition that only

bulky goods would be sold from the units. The use of the conditions are supported by PPS 5. Under section 37 it states that conditions restricting the scale and nature of major out- of centre retail developments may be imposed to protect the shopping role of existing centres. Conditions may specify types of goods to be sold. Under PPS 5 section 38 it states that town centres are the preferred location for major comparison shopping and mixed retailing development proposals. It goes on to state that the availability of suitable sites within the town centre will be an important consideration where development is proposed outside the town centre. Applicants should be able to demonstrate that all potential town centre sites have been thoroughly assessed. Under section 39 of PPS 5 it goes further in stating that major proposals for comparison shopping will only be permitted in out – of centre locations where town centre sites are not available. This is the key issue of the proposal.

1.6

As the application involves a site outside the town centre a Retail Impact assessment was submitted with the application. The applicant states that their Retail Impact Assessment confirms that a detailed selection process found that there are no suitable sites in Coleraine Town Centre. The applicant has stated that the sites suggested by the Department are not suitable due to their size limitations, physical requirements of the proposal and development constraints. The applicant in this planning application is Kelvin Properties although they state the preferred retailer will be Home Bargains who wish to reverse the current requirement of 70% Bulky 30% Non- bulky to 30% Bulky 70% Non- bulky. This application seeks to amend the permission and extend the store to facilitate Home Bargains as an operator. The applicant has outlined the many requirements of Home Bargains as an

operator resulting in an argument that Unit 17 at Riverside is a suitable site. The applicant argues that the following are requirements of Home Bargains:

- A store size of 15000sq ft.
- A minimum Hunch Height of 6 metres;
- A dedicated service yard that can accommodate 40ft service lorries; with a minimum of 2 bays
- Dedicated on- site parking
- Requirement for shoppers to easily use shopping trolleys

The applicant states that as a minimum, this is required to provide a suitable site for Home Bargains. A Judgement [Tesco Stores Ltd v Dundee City Council 21 March 2012] has also been submitted by the applicant who says that suitable means suitable as defined by the applicant.

1.7

PPS 5 requires the applicant to look at alternative sites; starting with the Town Centre before moving out of town. The applicant has submitted substantial information arguing why there are no suitable sites, particularly in the Town Centre. Some of these reasons are briefly summarised above, with further arguments and reasons submitted.

1.8

Home Bargains website sets out its Retail Requirements 2014. These include, amongst other general requirements, a requirement for:

- High Street, Shopping Centre or Out of Town Retail Parks
- An Open A1 consent [assumed to mean unrestricted retailing]

- Ground floor slabs 12,000-30,000 sq. ft. with servicing by 16.5 metre vehicles.

1.9

This list does include many of the requirements stated by the applicant's agent. The other matter to consider is the Judgement and whether this idea of suitable is suitable as solely defined by the applicant. Para 29 of the Judgement says that an applicant is "expected to have prepared his proposals in accordance with the recommend approach [sequential]: he is, for example, expected to have regard to the circumstances of the particular town centre, to have given consideration to the scope of accommodating the development in a different form and to have thoroughly assessed sequentially preferable locations on that footing." Para 29 concludes that "whether an alternative site suitable for the proposed development, not whether it can be altered or reduced so that it can be made to fit an alternative site". Para 30 goes on to explain how it is apparent that a flexible approach was adopted. In assessing this proposal, the applicant appears to have raised the standard requirements to suit the application site. In conflict with the agent, The Planning Authority does not agree that a suitable site means 'suitable' as proposed by the applicant.

1.10

The Department initially put forward 3 alternative sites, including one being offered by an objector. These 3 sites have been rebutted by the applicant as not suitable. Site 1 at Hanover Place, and Site 2 The Diamond Centre and Site 3, former Dunnes Store. Site 3 was then discounted by the Planning Authority regarding availability issues.

However, given the retail requirements of Home Bargains, the other 2 sites at Hanover Place and The Diamond Centre do provide suitable alternatives. The alternatives in fact also offer unrestricted retailing, something that Home Bargains itself states is a requirement, which the proposed site will not deliver as it would be restricted retailing. The alternative sites can also meet the floor space and servicing requirements and are within the town centre. Although the applicant has done a thorough assessment of alternative sites, this does not mean they are not suitable. As outlined above, there are 2 sites within the town centre at Hanover Place and The Diamond Centre, which provide unrestricted retailing, have ground floor slabs 12,000-30,000 sq. ft. and can accommodate servicing by 16.5 metre vehicles. Both sites offered by the Planning Authority have prominent locations within the town centre of Coleraine and are both easily accessible. Although work would be required to the properties, it can be argued that work also needs to be carried out at the unit 17, as the extension also needs to be constructed as the site of the extension area is currently a derelict vacant piece of land. Both sites are within the central area of town where there are good public transport links and adequate car parking provision with many existing car parks within easy walking distance.

1.11

This proposal therefore fails to demonstrate that there are no alternative sites within the town centre, and should therefore be refused. There are clearly 2 possible retailing premises which are considered suitable for the applicant.

1.12

In assessing the Hanover Place and the Diamond Centre facilities, servicing is possible at both site 1 and site 2. The site at Hanover Place was previously used by Budget D.I.Y. and this was successfully serviced by Heavy Goods Vehicles. The Diamond Centre is successfully serviced by HGVs and this has been witnessed by The Planning Authority. Servicing arrangement for individual units are incorporated within the shopping centre complex.

1.13

Although there is no dedicated car parking at each site, this is similar for other retailers operating in the Town Centre. Car parking within Coleraine town centre is adequate for the amount of retailing offered.

1.14

The use of trolleys at The Diamond Centre has been identified as a difficulty by the agent. However, this is a store management issue and it is insufficient to discount the suggested sites on this basis.

1.15

The number of structural pillars has been identified as an impediment at The Diamond Centre. However, store layout could reasonably be modified around this minimal constraint.

2.0 Conclusion

2.1

The Planning Authority contend that there are suitable sites within the Coleraine town centre which can reasonably accommodate the proposal, namely Hanover Place and the Diamond Centre. This will in turn support the existing Planning Policy Statement 5 (PPS 5) and the North East Area Plan 2002 (NEAP) and the draft Northern Area Plan 2016. It will have the result of strengthening retailing in the town centre and thereby strengthening the viability and vitality of Coleraine town centre. This is a very important issue within the urban areas of Northern Ireland and beyond at a time when town centres are suffering from dereliction and high numbers of vacant shops.

2.2

While it may be the case that the sites at Hanover Place and The Diamond Centre do not create a utopian ideal for the intended retailer, none the less, they could reasonably be made acceptable with the desired modifications.

Appendices

Appendix 1: Planning map and schedule

Appendix 2: Proposed Conditions (without prejudice)

Appendix 1: Planning map and schedule

Planning History

Site No.	Planning Reference	Address	Proposal	Decision	Date
Appeal Site	C/2013/0443/F	Unit 17 Riverside Regional Centre Castleroe Road	Proposed extension to Unit 17 and variation of condition 7 in planning approval C/2005/1299/F (under Article 28 of the Planning (NI) Order 1991), to permit the sale of convenience and comparison goods in Unit 17.	Current Appeal	
	C/2015/1299/F	Riverside Regional Centre Castleroe Road	Reconfiguration of existing retail warehouse units and associated car parking with landscaping, crib wall, service yard and access works.	Approval	14.12.2006
1		Hanover Place, 1 hanover Place, Coleraine	Existing vacant retail premises within towncentre		
2		The Diamond Centre, town centre, Coleraine	Existing retail shopping centre within towncentre		

Appendix 2: Proposed Conditions (without prejudice)

1.

As required by Section 61 the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2.

The gross floorspace of the retail unit hereby approved shall not exceed 1,394 square metres when measured internally.

Reason: To enable the Department to retain control over the nature, range and scale of retailing activity to be carried out at this location so as not to prejudice the continued vitality and viability of existing centres.

3.

The net retail floorspace of the retail unit hereby approved shall not exceed 1,255 square metres when measured internally.

Reason: To enable the Department to retain control over the nature, range and scale of retailing activity to be carried out at this location so as not to prejudice the continued vitality and viability of existing centres.

4.

No less than 377 square metres of the net retail floorspace of the retail unit hereby approved shall be used for the retail sale and ancillary storage of the items listed hereunder and for no other purpose, including any other purpose in Class A1 of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2004:-

- a. DIY materials, products and equipment;
- b. Garden materials, plants and equipment;
- c. Furniture and soft furnishings, carpets and floor coverings and electrical goods;

- d.* Such other items as may be determined in writing by the Department as generally falling within the category of "bulky goods".

Reason: To enable the Department to retain control over the nature, range and scale of retailing activity to be carried out at this location so as not to prejudice the continued vitality and viability of existing centres.

5.

No more than 734 square metres of the net retail floorspace of the retail unit hereby approved shall be used for the retail sale and ancillary storage of the items listed hereunder and for no other purpose, including any other purpose in Class A1 of the Schedule to the Planning (Use Classes) Order (NI) 2004:-

- a.* food, alcoholic drink;
- b.* tobacco, newspapers, magazines, confectionery;
- c.* stationary and paper goods;
- d.* toilet requisites and cosmetics;
- e.* household cleaning materials; and
- f.* other retail goods as may be determined in writing by the Department as generally falling within the category of 'convenience goods' or as generally being appropriate to the trading in these premises.

Reason: To enable the Department to retain control over the nature, range and scale of retailing activity to be carried out at this location so as not to prejudice the continued vitality and viability of existing centres.

6.

No more than 144 square metres of the net retail floorspace of the retail unit hereby approved shall be used for the sale and display of non-bulky comparison goods.

Reason: To enable the Department to retain control over the nature, range and scale of retailing activity to be carried out at this location so as not to prejudice the continued vitality and viability of existing centres.

7.

No internal operations increasing the floorspace available for retail use, including the installation of mezzanine floors, shall be carried out without the prior consent of the Department.

Reason: To enable the Department to retain control over the nature, range and scale of retailing activity to be carried out at this location so as not to prejudice the continued vitality and viability of existing centres.

8.

The gross retail floorspace within the unit hereby approved shall not be subdivided into separate units without the prior consent of the Department.

Reason: To enable the Department to retain control over the nature, range and scale of retailing activity to be carried out at this location so as not to prejudice the continued vitality and viability of existing centres.

Informatives

1.

For the purposes of interpreting the permission:-

- (a) *gross floorspace shall be calculated by way of sub internal measurement and shall include any mall, covered entrance lobby, enclosed circulation space, staff accommodation and other ancillary space; and*
- (b) *gross retail floorspace is floorspace used for selling goods by retail and includes associated storage space but excludes any mall, covered entrance lobby, enclosed circulation space, staff accommodation and any other ancillary space.*

2.

For the purpose of interpreting the permission, net retail floorspace is the area for the sale and display of goods, check-outs, counters, packing zones, circulation space from check-outs to exit lobby, fitting rooms and information areas. Net retail floorspace shall be calculated by way of internal measurement to the inner face of the wall.

