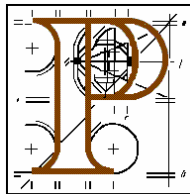


An Bord Pleanála



Inspector's Report

Development:

10 year permission for the Phase 1 of a mixed use town centre development fronting onto Carriage Road, Dan Shaw Road and Trim Road Navan, County Meath and measuring approx. 5.163 hectares. The site is bounded as follows: to the east by the Trim Road, a light industrial premises fronting onto Carriage Road and terraced dwellings fronting onto Connolly Avenue: to the west by Navan Pitch and Putt Club and the Dan Shaw Road: to the south by lands accommodating residential use: and to the north by lands extending to approx. 2.677 hectares within Navan town Council's administrative area, which are the subject of a concurrent planning application to Navan Town Council for the remainder of Phase 1 of this mixed use town centre development and consisting of 35,524sq.m. gross floor area retail development, internal access roads, new civic space of 5,254sq.m. and ancillary site accommodation works. The proposed development represents Phase 1 of the designated town centre expansion area and will include the following: 1) demolition of all existing structures on site none which are residential. 2) the construction of 2 no. vehicular access points along the Trim Road, 1 no. vehicular access point along the Dan Shaw Road, internal vehicular roads consisting of a Boulevard linking the Carriage road to the Dan Shaw Road, Road No. 1 traversing the site from north-west to south-east linking the Trim Road to Carriage Road and Road No. 2 linking the Boulevard with the Trim Road, and a civic space to the north of the site. This new road will include taxi ranks and bus stops. The proposed development also includes provision for all associated drainage, hard and soft landscaping, lighting, site boundary treatments and all associated ancillary works and site development works above and below ground. The development also includes all ancillary accommodation works above and below ground. This planning application is accompanied by an Environmental Impact Statement.

Site Address:

Carriage Road, Dan Shaw Road and Trim Road, Navan, Co. Meath

Planning Application

Planning Authority: Meath County Council
Planning Authority Reg. Ref.: NA 900139
Applicants: Navan Co-ownership
Type of Application: Permission
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant: Kinsella, Hunter and Brennan
First Party
Type of Appeal: First Party V Condition
Observers: None
Date of Site Inspection: 18th March 2010 and 26th April 2010

Inspector: **Joanna Kelly**

Appendices:
Appendix 1
Scheme 2004

Meath County Council Development Contribution

1.0 SITE DESCRIPTION

The appeal site is located on zoned lands within the development boundary of Navan town. The appeal site forms part of the lands identified as part of the Framework Plan lands 1 in the Meath County Development Plan. The overall framework lands are located to the southern/south-west end of the town.

The site is bounded by Carriage Road to the north, an Eircom building and two storey dwellings (Connolly Avenue) to the east, the Trim/New Road to the south-east and by Dan Shaw Road and a pitch and putt course to the west. There are large industrial units located to the north of the site which are to be demolished with access off the Carriage Road. There are also industrial units to the south-west which are to be demolished. These are screened by an existing wall along Carriage Road. Immediately north-west of these units is an open field which is located opposite the Beechmount Vale estate where the new boulevard access is proposed. There are two vacant residential units located within the overall landholding however do not form part of the appeal site.

The existing Navan to Dublin rail-line bisects the overall framework plan lands and is located to the north of the appeal site with a railway crossing which is still in use (mainly for freight trains).

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

The proposal is to construct a mixed-use town centre development on an overall site of ca. 5.16 hectares. The site is located within two administrative areas and as a result two concurrent applications were lodged with Meath County Council and Navan Town Council. This appeal relates to the lands located within the Meath County Council administrative area at time of lodging the planning application.

The extent of works pertaining to the lands in the Meath County Council area relates to the provision of a boulevard traversing the site from north to south-west of the site and the provision of internal road network immediately adjacent to the future rail line indicated on the master plan submitted. A portion of the town square is also located within the administrative boundary of Meath County council. A basement car-park is also proposed as part of the overall development. Excavation will occur at levels ca. 7.5 metres below existing ground levels and will also involve the making up of lands so as to ensure clearance of the new rail-line. Works on this portion of the site also includes the demolition of existing industrial units, and the provision of 2 no. vehicular access points along the Trim Road and one along Dan Shaw Road.

3.0 TECHNICAL REPORTS

Planning report:

The first planners report sets out the description of the appeal site and planning history. Section 2 outlines the policy context within which the application was assessed. Section 3 examines technical reports received in response to the application. Section 4 deals with the third party submissions. Section 5 examines the EIS submitted. Section 6 deals with the Planner's assessment of the application which indicates that the proposal was to be welcomed and is acceptable in planning terms. It is noted that the report sets out that *'although the rail station does not form part of this planning application, the incorporation of the rail station into the overall design of the scheme is a necessity as this is a key element of the town centre expansion area.'* Further Information was recommended which sought information on the following: rail-line, traffic and signalisation of junctions, water and foul water

services details, hydro-geological assessment identifying likely draw-down of the aquifer, details as to how Phase 1 lands will link with existing pedestrian network in Navan, landscaping details, boundary treatments, et al.

The second planners report set out that the applicants response to the further information request. The planning officer noted that the applicant's response in relation to the rail line was considered satisfactory subject to conditions. The planners report emphasises that the rail-line does not form part of this application and will be the subject of a separate planning process. The revised rail-line confirms that there will be no impact on the buildings at Parnell Park. The applicants indicated that the realigned Dan Shaw/R-161 junction has a signalised cross roads junction with the Trim road which have the benefit of planning permission. A revised traffic and transportation section of the EIS was submitted. With regard to the draw down on the aquifer it is noted that the planning officer indicates that the assessment does not indicate the extent of drawdown as was requested. The Planner summarises the development by setting out that *'the indicative master plan illustrates where the various uses are to be located. As the master plan complies with the framework plan submitted with the application the principal of development of the lands as proposed in the master plan is considered acceptable.'* It was recommended that permission be granted subject to 67 conditions.

Roads Department

18.02.09 FI required in relation to junction designs, concerns re levels at new railway line and station, cross sections required, TIA assumes all junctions are signalised however design layout for signals at Carriage Road/Trim Road required.

18.11.09 FI submitted addresses some of the issues but opens up a number of new issues.

- The TIA is based on pm peak only with no assessment of AM peak which also generates congestion.
- Concerns re junctions
- The proposed boulevard road is to carry over 1400/ph vehicles during the pm peak creating pressure on same as a 'Smarter Travel' friendly scheme.
- Special contribution to be provided for junction modifications

Report sets out no objection to Phase 1 subject to conditions.

Water Services Department

No objection to the proposed development subject to conditions.

EHO

No objection to the proposed development

External Reports

NRA 12.03.09 The Authority will rely on the Planning Authority to abide by the national policy in relation to development on national roads.

DoEHLG, Development Applications Unit 06.03.09 Archaeological Impact Assessment to be carried out and submitted as further information.

Iarnród Éireann 01.11.09 Condition to be attached if application to be granted 'prior to commencement of development, agreement to be reached with Iarnród Éireann in relation to the proposed railway line through the site including all lands in the control of the developer which are not part of this application and proof of this agreement provided to the council prior to commencement'. Specific comments from Iarnród Éireann were enclosed in the response and will be discussed in more detail in the assessment hereunder.

4.0 PLANNING AUTHORITY'S DECISION

Meath County Council granted permission for the proposal subject to 65 conditions.

Of relevance to this appeal are Conditions 62-65 which relate to development contributions.

5.0 APPEAL GROUNDS

First Party Appeal

The First Party appeal is against conditions 63-65 attached by the Planning Authority and is summarised as follows:

- The First Party are satisfied with the decision to grant permission but contend that Section 48 of the Contribution Scheme has not been properly applied in this instance.
- A single development is proposed and due to the location of the site covering both the Town and County Council administrative planning areas two applications had to be concurrently sought for the development.
- Notification of decisions to grant permission issued on the same day subject to the same conditions, reflective of the fact that a single development is proposed, however the contribution conditions nos 62 to 65 of both decisions reflect the full amount of contributions due for the entire proposed development and in effect constitute 'double charging'.
- The First Party are seeking the removal of the contribution requirements from the Meath County Council decision in view of the fact that the contributions due under Section 48 Navan Town Council Development Contribution Scheme are applied for the entire development under the Town Council notification decision. It is set out that the significant proportion of works proposed will occur in the town council area.
- It is noted that the Navan Town Council boundaries have since the making of the applications in February 2009 been extended and the entire development site now falls within the Navan Town Council Area.

6.0 RESPONSES

Response from Planning Authority

The Planning Authority's response is summarised as follows:

- The total site area of the town centre development is ca. 7.84 ha. The land at the time of lodging the planning application fell within two administrative areas i.e. Navan Town Council and Meath County Council. The Planning Decisions in respect of both files were identical with identical conditions attached.
- In response to the First Party appeal against the financial conditions, the Planning Authority set out that the applications were lodged prior to the extension of the Navan town boundary but the decisions were made after the extension. The Supplementary Boundary Extension Order and in particular, paragraph 11 (1) thereof stated that the County Council continued to be the planning Authority in respect of planning applications lodged prior to the date of the extension of the boundaries. Therefore the Navan Boundary Extension Order does not affect the normal provision where a development straddles functional areas. The Planning Authority have indicated that it was never the intention to double charge for the levies and on the basis that the Developer would have to implement the Navan Town Council permission first, Meath County Council would be agreeable to its permission being amended to provide that any financial contribution made by the Developer on foot of the Navan Town Council permission would act as credit against the equivalent condition in the County Council permission. It is re-iterated that the development was levied in accordance with the requirements of the scheme in place at time of issuing of the planning decision is the County Meath Development Contributions Scheme 2004.

7.0 PLANNING HISTORY

The Planners report notes that there is no planning history noted on the planning register pertaining to the subject site.

An online planning search did not indicate any recent planning history with the appeal site.

8.0 CONTRIBUTION SCHEME

A copy of the adopted Development Contribution Scheme for Meath County Council is attached on file. This scheme was adopted in 2004. A copy of the Supplementary Boundary Order for the 2009 pertaining to Navan Town is also enclosed for reference.

9.0 ASSESSMENT

In accordance with Section 48 (13) (a) the Board will not determine the application as if it had been made to it in the first instance but will only determine the matters under appeal and will issue appropriate directions to the Planning Authority when it has determined the appeal.

The First Party has appealed the conditions pertaining to financial contributions on the basis that they have effectively been doubled charged. At the time of lodging the two concurrent planning applications, the appeal site was located within two different administrative jurisdictions and therefore there were two different contributions schemes that applied to the overall site. The Planning Authority issued a grant of permission in respect of both applications and applied identical conditions to both. It should be noted that the entire retail element of the overall development applied for (i.e. shopping centre with associated infrastructural works) was and still is contained within the administrative boundary of Navan Town Council at the time of making the application.

The First Party is seeking the removal of the contributions sought in respect of this appeal which pertains to the Meath County Council Development Contribution Scheme on the basis that the significant works proposed will occur within the Navan Town Boundary.

Having regard to the provisions of the Contribution Scheme in place at the time of lodging the application, there is no provision for seeking a contribution in respect of the works proposed in this appeal. The extent of works within the Meath County Council's administrative boundary relates to infrastructural works which are considered ancillary to the development proposed in PL.235581. Section 3.1 of the Scheme refers to the categories of development that attract contributions, infrastructural facilities is not specifically mentioned. It is noted that the category Open Port Storage Space specifically sets out that car-parking facilities provided ancillary to a particular development are not included. The Planning Authority have attached relevant contribution conditions in relation to the retail development permitted under NT-90002.

Conclusion

It is considered that the Planning Authority has incorrectly applied Meath County Council's adopted Development Contribution Scheme in that there is no provision for seeking contributions in respect of the proposed development

10.0 Recommendation

It is recommended that the Board direct the Planning Authority to remove Conditions 62-65 inclusive.

REASONS AND CONSIDERATIONS

Having regard to the nature of the development proposed namely infrastructural works which is considered to be works ancillary to another planning application pertaining to a retail development, and the provisions of the Contribution Scheme in place at the time of making the planning application, the Board considers that the terms of the Scheme has not been properly applied.

Joanna Kelly
Planning Inspector
28th April 2010