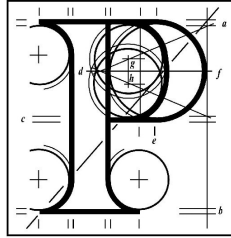


# An Bord Pleanála



## Inspector's Report

**Development:** To erect a bus shelter with 2 internally illuminated advertising panels and associated site works adjacent to the footpath on the northbound side of the Dublin Road, the R455, outside Roseville Estate, Naas, Co. Kildare.

### Application

Planning authority: Naas Town Council  
Planning application reg. no. 09/500061  
Applicant: Dublin Coach Ltd  
Type of application: Permission  
Planning authority decision: Refusal

### Appeal

Appellant: Dublin Coach Ltd  
Type of appeal: First party -v- Decision  
Observer: None  
Date of site inspection: 21<sup>st</sup> July 2010

**Inspector:** **Hugh D. Morrison**

## **Site description**

The appeal site comprises a rectangular portion of the grass verge that accompanies the footpath on the western side of Dublin Road. This portion equates with the footprint of the proposed bus shelter and so it extends over an area of 10 sqm. It would be sited 13.9m to the north east of the junction between the entrance to the Roseville Estate and the Dublin Road.

## **Proposed development**

To erect 2m wide x 5m long x 2.4m high, stainless steel, glazed, bus shelter, complete with two internally illuminated advertising panels and associated site works, adjacent to existing footpath. The panels are variously described as being 3 sqm in the description of the proposed development, 2 sqm on the submitted plans and they are dimensioned as being 1.1m wide x 1.686m high on the same plans, i.e. 1.8546 sqm.

## **Planning authority's decision**

Permission was refused on the following grounds:

- The bus shelter, in conjunction with other existing/proposed shelters, would represent a proliferation of haphazard and piecemeal development that would be visually obtrusive and a distraction/obstruction to drivers/pedestrians, and
- The bus shelter would be premature in advance of the local authority's planned co-ordinated approach to the provision of bus shelters for all service providers.

## **Technical reports**

### Town engineer

Objects, as the applicant is not in a position, legally, to erect the bus shelter and the local authority plans to erect bus shelters for the use of passengers travelling with all service providers, and

### Transportation

Objects, on the grounds of precedent/proliferation and safety hazard to pedestrians

## **Grounds of appeal**

- The planning authority's refusal is based on an error of fact, i.e. the proposed bus shelter would not lead to a proliferation of bus shelters,
- Any assessment of the traffic hazard posed by the proposed location of a bus shelter is a matter solely for An Garda Síochána under the Road Traffic Act 1932, as amended,

- The proposed bus shelter would not be a traffic hazard under the Town Development Plan,
- Instead, this shelter would represent the provision of public transport infrastructure set out in this Plan,
- As there are no other permitted or proposed bus shelters in the vicinity of the appeal site, the objective of co-ordinating with the providers of such shelters does not arise, and
- The proposed bus shelter would not be premature in advance of the local authority's planned provision of bus shelters, as this shelter would accord with the existing Town Development Plan.

### **Response**

The planning authority has no further comments to make.

### **Planning history**

This application is one of 6 applications made by the applicant for bus shelters in Naas. Each of these applications was refused permission and each has been appealed. Additionally, Bus Eireann lodged applications for bus shelters in Naas, too, but they were withdrawn. Application reg. no. 09/5000/40 was for a site adjacent to the current appeal site.

### **Development Plan**

The Naas Town Development Plan 2005 – 2011 has a section entitled "Transportation", the goal and objectives of which are of relevance to this appeal.

### **Assessment**

I have reviewed the proposed development in the light of the Town development Plan, relevant planning history and the submissions of the applicant and the planning authority. Accordingly, I consider that the decision on this appeal turns on the resolution of the following issues:

- (i) Whether the proposed bus shelter would be a traffic hazard,
- (ii) Whether the proposed bus shelter would be compatible with amenity, and
- (iii) The question of duplication.

I will discuss each of these issues in turn.

**(i) Whether the proposed bus shelter would be a traffic hazard.**

- 1.1 The effect of a proposed development upon road safety, normally, constitutes a material planning consideration. The applicant cites the Road Traffic Act 1932, as amended, and concludes that in the case of bus stops and bus schedules An Garda Síochána has the sole remit to assess road safety. He/she has submitted a copy of a letter from this body, which states that the bus stop associated with this application is “suitable and safe” for the services authorised under the applicant’s annual passenger licence.
- 1.2 However, the proposed development is not for the pre-existing bus stop adjacent to the appeal site but for a bus shelter that would serve this stop. The applicant has not demonstrated that this shelter, as distinct from the bus stop, is only to be assessed by An Garda Síochána from a road safety perspective. Thus, as a structure that constitutes development, it requires planning permission and so should be assessed in the normal way, i.e. its effect on road safety is a material planning consideration. Furthermore, this structure would not simply be a bus shelter, as it would house 2 internally illuminated advertisement panels. The effect of these panels, too, on road safety is a material planning consideration.
- 1.3 The proposed bus shelter would be sited 13.9m to the north east of the junction between Dublin Road and the entrance to the Roseville Estate, in a position on the grass verge that accompanies the footpath on the north western side of Dublin Road. The side ends to the shelter would have a width of 1.5m, which at roof level extends to 2m. The grass verge is 1.53m wide and the existing footpath is 2.2m wide. Thus, the siting of this shelter would be compatible with the maintenance of a footpath width of at least 2m.
- 1.4 Under the DMRB, the north eastern visibility splay for the aforementioned junction should have x and y distances of 4.5m and 70m, respectively. The southern corner of the proposed shelter would just clip this splay. However, this junction is accompanied by a short lane that facilitates the de-acceleration of vehicles exiting Dublin Road and the acceleration of vehicles entering Dublin Road. The opportunity thereby arises for drivers entering this Road to utilise the additional visibility that this lane provides. In these circumstances, I do not consider that the nominal breach of the aforementioned splay necessitates the re-siting of the proposed bus shelter.
- 1.5 The double sided internally illuminated advertisement panel would be sited in the north eastern end of the bus shelter, i.e. the end furthest from the aforementioned junction. It would thereby be viewed through the glazed south western end of this shelter and so, to that extent, any distraction factor to users of this junction would be muted.
- 1.6 I, therefore, conclude that the proposed bus shelter would not be a traffic hazard.

**(ii) Whether the proposed bus shelter would be compatible with amenity.**

2.1 The proposed bus shelter would be sited along a portion of Dublin Road that is predominantly zoned existing residential/infill in the Town Development Plan. This portion is characterised by established dwelling houses and mature landscaping. As a freestanding glazed structure by the roadside, this shelter would represent a minor addition to the streetscape that would be visually innocuous.

2.2 The only potentially intrusive aspect of the development would be the double sided internally illuminated advertisement panels. On the one hand, this portion of Dublin Road represents a non-commercialised stretch of this Road, i.e. it is free from advertisements at present. On the other hand, it is not an architectural conservation area and there are no protected structures nearby. Thus, while these panels would be without precedent, it may be difficult to sustain any objection to them in the absence of any recognised local conservation interest.

2.3 I, therefore, conclude that the proposed bus shelter would be compatible with amenity.

**(iii) The question of duplication.**

3.1 This application was paralleled for a period of time by an application made by Bus Eireann for a bus shelter in an adjacent position to the current appeal site. Both applications were the subject of requests for further information, following which Bus Eireann withdrew its application. The impetus for these requests appears to have been the objective of ensuring that the applicants co-ordinated their proposals to avoid the duplication of bus shelters at bus stops. In the absence of such co-ordination, the local authority now proposes to erect its own shelter for all service providers.

3.2 The current application was the subject of a request for clarification of the information previously submitted to the planning authority under further information. By way of response, the applicant undertook to allow Bus Eireann to advertise its services on Dublin Coach's bus shelter.

3.3 The applicant draws attention to the absence now of any parallel bus shelter proposal for the bus stop in question and the tentativeness of the local authority's substitute proposal, e.g. it is not cited as a specific proposal in the Town Development Plan and so it would, arguably, require a variation to this Plan. By contrast, the proposed bus shelter would accord with 2 of the Plan's 6 objectives for transportation, i.e. it would represent an improvement in the quality of public transport facilities, which the planning authority has undertaken to encourage all service providers to do. The authority has also undertaken to support the improvement of public transport services generally by reserving land in suitable locations for infrastructural and other requirements of these services.

3.4 I conclude that, as the risk of any duplicate proposal has been removed and no substitute proposal is in place, there are no planning grounds to

delay the introduction of the applicant's proposed bus shelter, especially as Dublin Coach is willing to allow Bus Eireann to display its timetable within this shelter, too.

### **Recommendation**

In view of my assessment, I recommend that the proposed bus shelter adjacent to the junction between Dublin Road and the Roseville Estate, Naas, Co. Kildare, be granted permission.

### **Reasons and considerations**

It is considered that the proposed bus shelter would comply with the Naas Town Development Plan 2005 – 2011 and that it would be consistent with road safety and compatible with amenity. It would, therefore, accord with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further particulars submitted the 7<sup>th</sup> day of December 2009 and the clarification of these particulars submitted on 12<sup>th</sup> day of February 2010, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The bus shelter shall be sited in a position whereby a footpath with a minimum width of 2 metres is retained along the full length of this shelter.

**Reason:** In order to facilitate the ease and safety of pedestrian manoeuvre.

3. The timetable bulletin board shown on drawing no. 09-18-52 received by the planning authority on the 15<sup>th</sup> day of June 2009 shall be made available to other bus service providers, too, for the purpose of displaying the timetable for each bus route that serves the adjacent bus stop. To this end, the surface area of this bulletin board shall be sub-divided equally between each bus service provider.

**Reason:** In the interest of orderly and well planned development.

4. Advertising panels shall be restricted to those shown on drawing no. 09-18-52 received by the planning authority on the 15<sup>th</sup> day of June 2009, and each of their surface areas shall not exceed 2 square metres. No further advertising signs or devices shall be affixed to the shelter without a prior grant of planning permission.

**Reason:** In the interest of visual amenity and to avoid visual clutter on the street/road.

5. The shelters and any advertising panels shall be so lit as not to cause glare to users of the public road or adjacent residential properties. All such panels shall be of the static type only, and scrolling/prismatic advertisements shall not be used.

**Reason:** In the interest of traffic safety and residential amenity.

6. When no longer required for the use for which it was erected, the bus shelter shall be removed permanently and the pavement/grass verge reinstated.

**Reason:** In the interest of visual amenity.

7. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

8. The developer shall pay to the planning authority a financial contribution of €750 (seven hundred and fifty euro) 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 – 2009. 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

**Reason:** It is a requirement of the Planning and Development Act, 2000 – 2009, 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.

**Note**

A person shall not be entitled solely by reason of a permission under section 34(13) of the Planning and Development Act, 2000 – 2009, to carry out any development.

**Hugh D. Morrison**  
**Inspector**  
27<sup>th</sup> July 2010