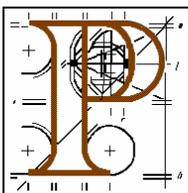

An Bord Pleanála



Inspector's Report

Development: Site infrastructural works including 850 metres of road, foul and surface drainage, watermains and service ducts for a future industrial estate at Powerstown Road, Powerstown, Co. Dublin.

Planning Application

Planning Authority : Fingal County Council
Planning Authority Register Reference : FW13A/0117
Type of Planning Application : Permission
Applicant : J. Cassells & D. Madigan Cassells
Planning Authority Decision : Grant subject to conditions

Planning Appeal

Appellants : Maureen Horan
Type of Appeal : 3rd Party v. Grant
Observers : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 08/07/14

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site, which has a stated area of 13.4 hectares, is approx. 2km north of the M3/N3 and is accessed via a recently constructed cul-de-sac road (Damastown Rise) serving the commercially zoned lands immediately to the south (Damastown Industrial Estate). The said road terminates to the east of the site at a pumping station. There is a further, recently constructed spur road off same forming the southern boundary of the site with a post and wire fence erected along the shared boundary. The junction of the access road with the public road known as Damastown Avenue to the south (titled as Macetown South Road on the submitted plans) is delineated by a roundabout. Iron Mountain Records Management and Farm Hand agricultural supplies are accessed from Damastown Rise with site development works underway on lands immediately to the south of the appeal site. The IBM Technology campus in the Damastown Industrial Estate is located to the west (not immediately adjacent) with Fingal Industrial Park located to the south of Damastown Avenue.
- 1.2 The site is roughly square in shape comprising of a number of fields, the boundaries of which are delineated by hedgerows. There are a number of drains traversing the site. The Pinkeen River traverses the site at its north-eastern most corner.
- 1.3 Powerstown Road bounds the site to the north. The road is narrow and cannot facilitate unimpeded two way vehicular movements for most of its length. Powerstown House is located on the opposite side of the road with the lands surrounding same in agricultural use.

2. PROPOSED DEVELOPMENT

- 2.1 The application was lodged with the Planning Authority (PA) on the **17/10/13** with further plans and details submitted **10/02/14** following a further information (FI) request dated 10/12/13. Revised public notices were received 14/03/13.
- 2.2 The proposal entails the provision of infrastructure to facilitate the future development of the lands. Applications for industrial development are to follow on a plot by plot basis.

The works consist of:

- An 850 metre long loop road around the site with a 9 metre carriageway width, 1.5 metre grass verge, 1.5 metre cycle track and 1.5 metre footpath each side. The proposed industrial estate is to be linked into the existing road system. Potential future access to lands to the west is to be provided for.
- Foul water drainage pipes which are to discharge to the existing foul sewer at the Damastown estate.
- Surface water drainage including an attenuation point in the north-east corner of the site before discharging to the Pinkeen Stream. The existing stream along the south-west boundary is to be realigned. The channel will connect into the portion of the stream which has already been culverted with a 600mm pipe as part of the Damastown Industrial Estate works.
- All future developments on these sites will be required to provide their own attenuation on site in accordance with Fingal County Council requirements.
- Water supply is to be by way of a 300mm connection from the existing watermain along the southern boundary of the site.
- Foul water drainage is proposed to flow into the existing foul sewer at Damastown estate.
- Provision of a 2.4 metre high palisade fence around the entire site.

2.3 The application, as amended, is accompanied by a planning application report which includes a traffic analysis in which it is estimated that 575 and 522 cars are expected to be generated by the site during the am and pm peak respectively. It is estimated that approx. 86 and 90 PCU's will be generated respectively during the am and pm peak periods. The junction analysis suggests that the current road network is able to cater for the additional generated traffic volumes. The implementation of major road improvements as proposed by the Fingal County Development Plan will increase capacity on the road network which will facilitate reductions in delay times. The impact of the generated traffic will be addressed in the future applications for development on the sites.

2.4 A Stage 1 preliminary flood risk assessment is also included in the planning application report which concludes that whilst flooding events have been recorded in the vicinity of the Pinkeen River no information indicates that the proposed site is subject to a significant flooding risk. Due to the location and its distance from previous flooding locations it is considered that the site is not subject to significant flood risk. Furthermore as surface water will be attenuated on site it is considered that the flooding risk downstream will not be increased.

2.5 Appropriate Assessment – Stage 1 Screening also accompanies the application. The report concludes that there are not likely to be significant effects on these Natura 2000 sites thus a Stage 2 AA is not deemed necessary.

2.6 The Archaeological Impact Assessment report notes that there are no recorded monuments on the site. Archaeological testing is recommended on the site prior to construction.

Note: An objection to the application received by the PA has been forwarded to the Board and is on file for its information. The issues raised relate to the issue of land ownership, impact on the Pinkeen River and lack of EIS.

3. INTERNAL REPORTS & PRESCRIBED BODIES

3.1 The **Health and Safety Authority** in a letter dated **11/11/13** does not advise against the granting of permission in the context of Major Accident Hazards.

3.2 **Inland Fisheries Ireland** in a report dated **11/12/13** requires that any works directly affecting watercourses or riparian habitats should be submitted to it for assessment. All works are subject to an agreed method statement.

3.3 **Water Services** in a report dated **25/11/13** recommends FI on foul drainage, revised SuDs, preparation of a Flood Risk Assessment, provision of a riparian strip of at least 10 metres and revised plans for diverting the stream along the southern boundary so as to maintain same as an open channel. The **2nd report** dated **27/03/14** following FI states that there is no objection to the proposal subject to conditions.

3.4 **Transportation Planning Section** is a report dated **03/12/13** sets out the background noting that a similar application under ref. F05A/1582 was granted permission. The internal layout appears to be designed in accordance with standards that have been superseded. The Design Manual for Urban Roads and Streets applies. The tie-in between the proposed western access road and the existing road may be outside the red line. The Traffic Impact Assessment is not satisfactory but that it is possible to deal with the shortcomings in future applications for traffic generating development. It is considered that the issues raised can be dealt with by condition should permission be granted. The **2nd report** dated **02/04/14** following FI reiterates it comments set out in the 1st report.

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- 3.5 The **Heritage Officer** in his comments in a report dated **04/12/13** considers that the document allowing for AA screening should be modified to concentrate on risk of impacts to downstream Natura 2000 sites via impacts to the Pinkeen River. The impact of the proposal on the Pinkeen River in the context of development plan objectives is also required. Impacts on protected species should also be assessed. In addition an archaeological assessment should be undertaken.
- 3.6 The **1st Planning Officer's** report in the Record of Executive Business and Manager's Order dated **09/12/13** considers the principle of the proposal to be acceptable under zoning objectives GE and HT. The principle has already been established on the site under ref. F05/1582 and the extension of duration of permission under ref. F05A/1582/E1. The proposal will put infrastructure in place to serve future development. It is considered that there are a number of issues in relation to foul sewer, surface water, heritage and the red line boundary that require resolution and a further information (FI) request is recommended. The **2nd Planning Officer's** report dated **08/04/14** considers that the FI request has been satisfactorily answered and recommends a grant of permission subject to conditions.

4. PLANNING AUTHORITY'S DECISION

The PA decided to grant permission for the above described development subject to 7 conditions including:

Condition 2: Full landscaping plan to be agreed prior to commencement of construction.

Condition 3: Archaeological monitoring of all groundworks.

Condition 4: Submission of Construction and Demolition Waste Management Plan.

Condition 5: Submission of ecological survey on protected species if any.

Condition 6: (a) Roads layout to be revised in accordance with Design Manual for Urban Roads and Streets

(b) details of tie-in between the proposed western access and existing road to be agreed with Transportation Planning Section.

(c) Plan layout of the boundary along Powerstown Road to be agreed prior to the construction.

(d) submission of satisfactory Traffic Impact Assessment to be submitted as part of a future application for any traffic generating development.

Condition 7: Requirements for foul sewer, surface water and water supply.

5. GROUNDS OF APPEAL

The 3rd party appeal by Maureen Horan can be summarised as follows:

- Although mentioned in the address the development is not on the Powerstown Road and the planning notice was not erected along same. It was erected on a gate on Damastown Rise, Damastown Industrial Estate which would appear to be the correct address. The notice was situated some 200 metres from the site subject of the application.
- The application should be accompanied by an EIS.
- The site includes lands not in the ownership of the applicants.

6. APPLICANTS' RESPONSE TO GROUNDS OF APPEAL

The response by Brendan T. Muldowney Solicitors on their behalf can be summarised as follows:

- The planning notice was erected correctly in accordance with the relevant legislative requirements.
- The site is adjacent to the Powerstown Road and is the nearest public road to the site.
- The appellant does not own land within the site to which the application refers. The lands owned by the appellant were acquired by way of CPO.

Note: A letter from Nicholas O'Dwyer Consulting Engineers on behalf of the applicants was not accepted on the basis that it was received after the above submission.

7. PLANNING AUTHORITY'S RESPONSE TO GROUNDS OF APPEAL

The PA's submission notes:

- The site bounds the Powerstown Road hence the inclusion of that road in the site address.
- The proposed infrastructural works do not fall under Schedule 5 – Development for the Purposes of Part 10 of the Planning and Development Regulations 2001-2012 and hence do not require an EIS.
- Issues relating to landownership are legal matters and not relevant to the appeal.

8. OBSERVATIONS

None

9. SECTION 131 NOTICES

Prescribed bodies were invited to make a submission on the appeal. No responses were received.

10. RELEVANT PLANNING HISTORY

F05A/1582 – permission granted on the site for infrastructural works including 850 metres of road, foul and surface water pipes, watermain and service ducts for future industrial centre.

F05A/1582/E1 – an extension of duration of permission was granted for a two year period. The extension expired on the 08/08/13. As per the Planning Officer's report on the application the PA was satisfied that an EIA and AA were not required.

FW12A/0027 – permission granted on the adjoining lands to the south for warehousing and ancillary facilities for the storage and distribution of materials including chemicals on a 14.2 acre site (Seveso site). The said application was accompanied by an EIS.

11. DEVELOPMENT PLAN PROVISIONS

The **Fingal County Development Plan 2011-2017** refers.

11.1 The majority of the site is within an area zoned GE – general employment, the objective for which is to provide opportunities for general enterprise and employment.

11.2 The stated vision for this zoning objective is to facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. General employment areas should be highly accessible, well designed, permeable and legible.

11.3 A portion of the site along the western side is zoned HT – high technology the objective for which is to provide for office, research and development and high

technology/high technology manufacturing type employment in a high quality built and landscaped environment.

- 11.4 The stated vision for this zoning objective is to facilitate opportunities for high technology, advanced manufacturing, major office and research and development based employment within high quality, highly accessible, campus style settings. The HT zoning is aimed at providing a location for high end, high quality, value added businesses and corporate headquarters. An emphasis on exemplar sustainable design and aesthetic quality will be promoted to enhance corporate image and identity.

Objective 414 – prepare a Framework Plan for the Damastown Industrial Estate.

12. ISSUES AND ASSESSMENT

I consider that the issues arising can be assessed under the following headings:

1. Legal Issues
2. Principle of the Development
3. Site Access
4. Need for EIS
5. AA - Screening

Legal Issues

- 12.1 The issue of the address of the site and location of the site notice has been queried by the appellant. The site is bounded by the Powerstown Road to the north from which agricultural access to the lands is currently available. As can be extrapolated from the ordnance survey maps for the area the site is largely within the townland of Powerstown with a small portion in the townland of Macetown Middle (south-western corner) and the remainder within the townland of Macetown North. As such I consider that the site location as given to be reasonable. It does not appear to have prejudiced 3rd party rights as evidenced by the objection received by the PA and subsequently this appeal.
- 12.2 The issue of the location of the site notice is a matter for the PA. As per the site layout plan two notices were to be erected, the first along the Powerstown Road and the second on the existing estate road (Damastown Rise)

constructed to the south of the appeal site. A report on the PA's file dated 21/11/13 noted the notice to be placed.

- 12.3 The appellant also contends that lands which were in her ownership are included in the site boundary. The appeal submission details her contention regarding the acquisition of these lands and her attempts to recover possession. It would appear that the lands were subject of a CPO and that the applicants have sufficient interest at this juncture to lodge the application. I note that the applicants lodged the previous application on the lands under planning reference F05A/1582 and the subsequent application for extension of duration of permission under ref. F05A/1582/E1. Thus there does not appear to be a legal impediment to the adjudication of the application. Any further contention on this matter is for resolution through the appropriate legal channels.

Principle of the Development

- 12.4 This constitutes the second application for site development works on the lands in question. The first was granted permission under planning reference F05A/1582 with a subsequent extension of duration of permission granted under planning reference F05A/1582/E1. The said extension expired in July 2013. As extrapolated from the drawings attached to same the proposed layout is identical to that as proposed in the current application with minor modifications in terms of site drainage.
- 12.5 The first application was assessed under the previous County Development Plan in which the lands were zoned ST1, the objective for which was to facilitate opportunities for science and technology based employment and associated and complementary uses in a high quality environment in accordance with an approved local area plan. I am not aware of the preparation of the said LAP. The extension of duration of permission was assessed in July 2011 and thus under the auspices of the current Plan which was adopted in April of that year. In same the site is zoned general employment, the objective for which is to provide for opportunities for general enterprise and employment. A small section along the western boundary of the site is zoned High Technology the objective for which is to provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment. Map based objective 414 seeks the preparation of a framework plan for the Damastown Industrial Estate. I am not aware of such a framework plan and there is no evidence of its preparation at the time of writing this report.

12.6 I consider that the proposed infrastructural works on the lands are acceptable in principle which will serve future development. It is this future development which will be subject to separate planning applications that will be required to comply with the zoning objectives for the lands.

Site Access

12.7 The lands are to connect to the existing road infrastructure developed by the County Council to facilitate the development of the Damastown lands. Access to the site is via Damastown Rise accessed from a roundabout off Damastown Avenue. No access is proposed from Powerstown Road which bounds the site to the north. I note from the Transportation Planning Section that lands to the north of the said road are included within the long term development boundary in the County Development Plan and that the proposed infrastructure works would not prejudice a possible future realignment of the road.

12.8 Modifications to accord with the Design Manual for Urban Roads and Streets are required by the Transportation Planning Section which can be adequately addressed by way of condition.

12.9 The proposed works in question do not in themselves generate traffic save that associated with the construction phase. I note the Transportation Planning Section considers it appropriate that any further applications for future generating development be accompanied by a Traffic Impact Assessment.

Need for EIS

12.10 Neither this application nor that permitted under ref. F05A/1582 are accompanied by an EIS. With regard to this matter I note the following:

- The site has a stated area of 13.43 hectares and is therefore below the 15 hectare threshold as set out in Class 10 (a) Part 2 Schedule 5 of the Planning and Development Regulations 2001, as amended.
- Consideration was given as to whether an EIS was required in the Planning Officer's report on the application for the extension of duration of permission.
- The application was accompanied by a planning application report which included a traffic analysis, drainage details and a stage 1 flood risk assessment.
- The PA on receipt of the application sought further information on site drainage, site layout, and appropriate assessment screening and an

archaeological impact assessment to which the applicant responded on foot of which the PA notified of its decision to grant permission.

- The matters raised by the appellant in the grounds of appeal are responded to by both the applicant and the PA.

12.11 I consider that there is sufficient information on file addressing the environmental effects arising as to allow for a proper assessment of the proposal and I do not consider that the preparation of an EIS is necessary.

AA-Screening

12.12 An AA screening report accompanies the application.

12.13 The development the subject of this screening is as described in section 2 above, namely infrastructural works to allow for future commercial development.

12.14 Foul water drainage is proposed to flow into the existing foul sewer at Damastown estate. Surface water drainage pipes have been designed with a capacity for the total roads and pavements. It is proposed to utilise the allowable discharge of the roads. It is proposed to divert an existing stream along the south west side of the site. This stream has been culverted with a 600mm pipe as part of the Damastown Industrial Estate road and it is proposed to add to the length of this culvert upstream.

12.15 The site is c. 10km to the north-east of the Rye Water Valley/Cartron SAC (site code: 001398) near Leixlip. The qualifying interests of the site are:

- Petrifying Springs
- Narrow-mouthed Whorl Snail
- Desmoulin's Whorl Snail

12.16 The South Dublin Bay and River Tolka Estuary SPA is c. 15 km to the south-east of the site (site code:004024). The qualifying interests are:

- Light-bellied Brent Goose
- Oystercatcher
- Ringed Plover
- Grey Plover
- Knot
- Sanderling
- Dunlin
- Bar-tailed Godwit

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- Redshank
 - Black-headed Gull
 - Roseate Tern
 - Common Tern
 - Arctic Tern
 - Wetlands & Waterbirds

12.17 To date generic conservation objectives apply for the two sites, namely the maintenance of habitats and species within Natura 2000 sites at favourable conservation condition which will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

12.18 The Plinkeen Stream flows in a south-eastern direction before joining the Tolka River which, itself, flows into Dublin Bay between East Wall and Clontarf.

12.19 Due to the distance to the SAC and absence of any hydrological connectivity I would conclude that the proposed development will not pose any risk in terms of direct or indirect impacts on the identified SAC.

12.20 In terms of the SPA whilst the Tolka River discharges into the area covered by the SPA c. 18km downstream of the site I submit that due to the distance between the sites and the fact that the intervening area is largely developed with continuous disturbance the proposed development will not pose any risk in terms of direct or indirect impacts on the identified SPA.

2.21 It is reasonable to conclude, on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans and projects would not be likely to have a significant effect on any European site and that an AA is not therefore required.

13. CONCLUSIONS AND RECOMMENDATION

Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and my assessment above I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

REASONS AND CONSIDERATIONS

Having regard to the nature of the proposed development entailing site infrastructural works to facilitate the future development of the site, the current zoning provisions for the site as set out in the current Fingal County Development Plan and the pattern of development in the vicinity, it is considered that the proposed development, subject to compliance with the conditions set out below would not seriously injure the amenities of the area and would not be prejudicial to public health. The proposed development, would, therefore be in accordance 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 plans and particulars submitted on the 10th day of March, 2014, 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.

Reason: In the interest of clarity

2. Water supply and drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. The road network including turning bays, junctions, footpaths and kerbs shall be in accordance with the detailed standards of the planning authority for such works. A revised layout plan with the necessary modifications to the network shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of amenity and of traffic and pedestrian safety.

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4. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the development shall –
 - (a) Notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) Employ a suitably qualified archaeologist who shall monitor all site investigations and other excavations works, and
 - (c) Provide arrangements, acceptable to the planning authority for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanala for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

Pauline Fitzpatrick
Inspectorate

July , 2014