



Planning and Development Acts 2000 to 2018

Planning Authority: Meath County Council

Planning Register Reference Number: KA/171335

Appeal by Carol Schmid-Curran on behalf of the residents of Cavan Road, Kells, County Meath against the decision made on the 1st day of May, 2018 by Meath County Council to grant subject to conditions a permission to Michael McKeon care of Paul O'Neill Architects of Bective Street, Kells, County Meath in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a new two storey service station with ancillary retail and food court including (1) service building measuring 1,771 square metres gross internal area, containing net retail floor space of 99 square metres, including off licence measuring 15 square metres, three number food/café offers (including drive-thru restaurant) with preparation areas, storage, serving counters (measuring 212 square metres), seating areas (measuring 283 square metres, back of house area (including staff canteen, wcs, showers, lockers etc.) measuring 311 square metres, public facilities (wcs, showers etc.) measuring 154 square metres, storage, circulation, plant and ancillary areas measuring 712 square metres and an external seating area measuring 40 square metres, (2) full signage package including illuminated totem on Cavan Road, building signage and wayfinding signage throughout the site, (3) four number fuel pump islands with illuminated canopy over (including corporate logo) and one number heavy

goods vehicle fuel pump island with illuminated canopy (including corporate logo), (4) one number jet wash and one number brush wash with water recycling capabilities and storage tank and water/air facilities, (5) extension and reconfiguration of part of the existing access road to provide a footpath, cycle lane and vehicular/pedestrian access to the site, (6) new pedestrian access from the Cavan Road footpath into the site and (7) all associated and ancillary site works including 74 number parking spaces, three number electric car charging points, five number wheelchair accessible spaces, four number coach and six number heavy goods vehicle parking bays, partially covered cycle parking, landscaping, boundary treatments, public lighting, retaining walls, footpaths, road markings, surfacing, rainwater storage and attenuation, underground tank farm and new connection to public mains, foul sewer and storm main, all at Townspark, Cavan Road, Kells, County Meath, as amended by the further public notice received by the planning authority on the 5th day of April, 2018.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted as further information to the planning authority on the 21st day of March, 2018, the Inspector's report, and submissions on file, including the submission from Meath County Council in response to the Board's section 132 notice. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) and Special Protection Area (Site Code 004232) or any other European site, in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not, therefore, required.

Reasons and Considerations

Having regard to the nature and scale of the proposed development, the provisions of the current Meath County Development Plan 2013-2019, the Kells Development Plan 2013-2019 and the associated Cavan Road Framework Plan 2013 contained therein, the zoning objective pertaining to the site, the pattern of existing development in the vicinity and the information submitted with the planning application and appeal, it is considered that, subject to compliance with the conditions set out below, the proposed development would generally accord with the policy requirements of the Development Plan, would not seriously injure the visual or residential amenities of the area, and would be acceptable in terms of pedestrian and traffic safety. 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 21st day of March, 2018, 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. (a) The net retail sales space of the forecourt shop shall not exceed 100 square metres and shall not be extended by means of incorporating ancillary areas such as back of house, store areas, circulation or seating areas into the retail space.
- (b) The use of the retail area shall be strictly in accordance with the definition of “shop” set out in the Planning and Development Regulations, 2001, as amended. The sale of hot foods for consumption off the premises of the retail area shall be ancillary to the shop.

Reason: To comply with national policy, as set down in the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April, 2012.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of the visual amenities of the area.

4. The retail and food related elements of the proposed development shall not operate outside of the period between 0700 hours and 2300 hours on any day. No deliveries shall take place prior to 0800 hours nor after 2100 hours.

Reason: To safeguard the amenities of the area.

5. (a) Details of the signage proposed for this development, including location, scale and method of illumination, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) No external roller shutters shall be erected on any part of the exterior of the development.
- (c) No signs or advertising materials of any kind whatsoever shall be placed on the roadside verge outside the site, nor on the roadside wall.

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

6. Apart from the signage agreed in writing with the planning authority under condition 5(a) of this permission, and notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended, no further advertisement signs or advertisement structures, including flagpoles, shall be erected or displayed on the canopy, on the forecourt building or anywhere within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity, and to allow the planning authority to assess the impact of any further advertisements on the amenity of the area through the statutory planning process.

7. The works to the public road and the internal road network serving the proposed development, including junctions, parking areas, cycle parking, directional signage, footpaths, cycle paths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

8. Details of the proposed measures to address the recommendations of the Stage 1 Road Safety Audit submitted to the planning authority on the 21st day of March, 2018 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These measures shall be fully implemented prior to the opening for business of the proposed development.

Reason: In the interests of pedestrian and traffic safety.

9. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

10. All lighting used within the site curtilage shall be directed and cowled so as not to interfere with passing traffic or the nearby residential properties.

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

11. All service cables associated with the proposed development shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

12. Apart from the retail and food court uses authorised by this permission, the site shall only be used as a petrol filling station and no part shall be used for the sale, display or repair of motor vehicles without a prior grant of planning permission.

Reason: In the interest of protecting the residential amenities of the area.

13. The landscaping scheme, as lodged with the planning application, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

14. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed: -
 - (i) An Leq, one hour value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.

- (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

- 15. 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 and to ensure a proper standard of development.

- 16. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

17. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including measures to prevent spillage on the public road network, construction traffic management, construction traffic parking, noise and dust management measures and off-site disposal of construction/demolition waste. No construction-related parking shall take place on the public road at any time.

Reason: In the interest of public safety and residential amenity.

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer 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 excavation 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 Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site.

19. 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, as amended. 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 matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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

Philip Jones

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.