



Planning and Development Acts 2000 to 2020

Planning Authority: Meath County Council

Planning Register Reference Number: AA/191588

Appeal by Donal Greene and Clare Smith and other of Boden Park House, Kilbrev, Ashbourne, County Meath against the decision made on the 26th day of June 2020 by Meath County Council to grant subject to conditions a permission to Ashbourne Visitors Centre Limited care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Smithfield, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a new rollercoaster attraction incorporating two separate rollercoaster rides with a combined ride length of approximately 986 metres and a maximum height of 31 metres above ground level. Noise reduction measures are incorporated into the layout and design of the proposed development and include themed noise retention structures, below ground elements, and a six-metre-high sound barrier along part of the northern boundary consisting of a part three-metre-high berm (72 metres in length) and a part three-metre-high concrete wall (34 metres in length), with a three-metre-high acoustic fencing above (106 metres total length).

Associated and ancillary buildings include two number rollercoaster station structures (172 square metres and 170 square metres gross floor area

respectively); a maintenance building (70 square metres gross floor area); a toilet block (80 square metres gross floor area); a photo shop (eight square metres gross floor area); a general shop (30 square metres gross floor area); two number concession stands (12.8 square metres gross floor area each); and an Electricity Supply Board substation (14 square metres gross floor area).

The proposed development also incorporates two number pedestrian bridges over the Hurley River; drainage infrastructure, including a foul water pumping station and associated maintenance access roadway; internal paths and roadways connecting to existing Tayto Park infrastructure; landscaping; boundary treatments and all associated and ancillary plant and development works on site area of 4.53 hectares at Tayto Park Visitor Centre, Kilbrew, Ashbourne, County Meath.

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.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the provisions of the Meath County Development Plan 2013-2019,
- (b) the nature scale and layout of the proposed development,
- (c) the environmental reports included within the Environmental Impact Assessment Report and Natura Impact Statement submitted by the applicant,
- (d) the planning history of the site,
- (e) the submissions and observations received,
- (f) the decision of the planning authority, and
- (g) the report and recommendation of the planning Inspector.

Environmental Impact Assessment:

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location, and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application,
- (c) the submissions from the applicant and the prescribed bodies and third-party observers in the course of the application, and
- (d) the planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the developer provided information which was reasonable and sufficient to allow the Board to carry out an environmental impact assessment and to reach a reasoned conclusion on the significant effects of the project on the environment. The Board is satisfied that the information and data available and the reasoned conclusion is up to date at the time of taking the decision.

The Board agreed with the summary of the results of the consultations and information gathered in the course of the Environmental Impact Assessment, set out in the Inspector's report. The Board is satisfied the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision (with the exception of the inspector's concerns in relation to population and human health (noise and traffic)).

Reasoned Conclusion of the Significant Effects

Having regard to the examination of environmental information contained above, and in particular to the Environmental Impact Assessment Report provided by the developer, submissions and reports, the Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

Population and Human Health

- Positive significant long-term impacts on population and human health through the economic benefits arising from the operation of the theme park including the provision of improved amenities and enhanced tourism infrastructure providing direct employment and indirect employment.
- Adverse impacts on population and human health in terms of adjoining residential amenity during the operational phase from noise impact which can be mitigated by the proposed layout, berms and fences.
- Adverse impacts on population and human health in terms of surface water which can be mitigated during the construction phase by the management of construction and during the operational phase the management of site drainage.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures referred to above, including proposed monitoring as appropriate and subject to compliance with the conditions set out below, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting Inspector (with the exception of the inspector's concerns in relation to population and human health on noise and traffic).

In deciding not to accept the Inspector's reasoned conclusions in their entirety, the Board considered that the proposed development would not have an adverse impact on population and human health associated with traffic and in coming to its decision, the Board had regard to the applicants Traffic Impact Assessment, the planning authority's transportation departments report and decision and the previous Board Inspector's analysis and the Board's decision. The Board was satisfied that there is no adverse impact on population and human health relating to traffic and accepted that no increase in traffic generation over that previously permitted would occur as a result of the addition of the new attractions as outlined in the submitted Traffic Impact Assessment.

Furthermore, the Board considered that the proposed development would not have an adverse impact on population and human health associated with noise and in coming to its decision the Board was satisfied that the mitigation measures proposed were adequate and acceptable.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European sites, taking into account the nature, scale and location of the proposed development, the Natura Impact Statement (including an Appropriate Assessment screening statement) submitted with the application, submissions made in connection with the application and appeal, including those made by the appellants and observers and in the Inspector's report. In completing the screening exercise, the Board accepted and adopted the report of the Inspector in respect of the identification of the European sites which could potentially be affected and the Board concluded that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on European Site – the River Nanny Estuary and Shore Special Protection Area (site code 004158), or any other European site, in view of the sites' conservation objectives, and an Appropriate Assessment is not, therefore, required.

This determination is based on the limited extent of the development proposed, the use of normal construction practices, the discharge of surface water via an oil interceptor, and the distance from the European site.

In making this screening determination, no account has been taken of any measures intended to avoid or reduce potentially harmful effects of the project on a European site.

Conclusion on Proper Planning and Sustainable Development

The Board considered that the proposed development would be in accordance with European, National, Regional and Local planning policy, was plan led, would be in accordance with objective CS OBJ 8 in the Meath County Development Plan which is “to promote the development of sustainable tourism as a key driver of the Meath economy”. Furthermore, the Board had regard to Section 4.6.6 of the County Development Plan in relation to “Integrated Rural Tourism Complexes, which notes that “the development of significant family attractions such as Tayto Park has had a positive impact in attracting a different target market to the county, who, when visiting these sites, create spin off revenue for local shops, hotels and other commercial businesses. The addition of Tayto Park has provided a new national tourist attraction in the county deviating from the traditional attractions”. Details of the provision or upgrade of the requisite physical infrastructure along the N2 shall be the subject of further consultation and planning between Transport Infrastructure Ireland and the planning authority and are not a matter for this appeal to determine. The Board did not consider that the proposed development would have a significant impact on the existing capacity of the road network.

The Board was satisfied, subject to compliance with the conditions as set out below, that the proposed development would not seriously injure the residential amenities of adjoining properties, would not give rise to traffic congestion on the national road network and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was satisfied on the basis of the information submitted with the application and in response to the appeal, that the proposed

development, having regard to the mitigation measures proposed in the Environmental Impact Statement submitted with the application, would not seriously injure the amenities of properties in the vicinity by reason of the inspectors first recommended reason for refusal, noise and general disturbance, and would not depreciate the value of properties in the area, to such an extent as would warrant a refusal of the development or further alteration or mitigation (over and above that proposed).

The Board was satisfied that the information submitted as part of the Environmental Impact Assessment Report, and as additional documentation, was sufficient to allow identification and assessment of potential impacts and identification of proposed mitigation measures. The Board does not accept the view of the Inspector that the information regarding the adequacy and efficacy of the mitigation is inadequate. In coming to this conclusion, the Board considered the nature of the mitigation proposed, which is not atypical of noise mitigation proposed and introduced elsewhere and is consistent with best practice in terms of noise attenuation, and that noise monitoring and complaints procedures are also considered to be part of standard practice and as such their effectiveness is also sufficiently understood.

The Board noted that and accepted that noise modeling has been carried out in context of a quite noise area. Ambient noise monitoring was carried out. The daytime limit $L_{Aeq} 55dB(A)$ was reached but not exceeded at 2 of the 9 noise sensitive receptors.

Modelling was undertaken for a number of scenarios including existing ambient and combination scenarios taking account of the proposed rollercoaster 2021. These predictions do not exceed the current acceptable day time period noise level, however at two of the noise sensitive receptors during daytime the sound levels increase by 1dB(A) which would be deemed negligible. The in-combination scenarios remain well below the acceptable limit for daytime noise at 55dB(A).

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Furthermore, in respect for the Inspector's second reason for refusal, traffic, the Board considered that the proposed development would not further exacerbate the current identified capacity and congestion issues on the N2 and concurred with the planning authority in this regard. The Board noted and agreed with the report and conclusions of the Transportation Department of Meath County Council which states that:

"The site is primarily served by the N2 via the R155, and it is acknowledged that the existing junctions are operating at capacity or over capacity, particularly during the AM and PM peak hours. The application should not be granted if the resultant traffic generated by the development is over and above that already permitted for the site.

The Traffic Impact Assessment submitted with planning register reference number DA/140179, was granted on the basis that annual visitor numbers of 762,300 with a peak day of 9,529. Continued growth was anticipated up to 2019 at which point visitor numbers were expected to grow to 861,376.

The actual visitor numbers climbed as anticipated with the construction of the first rollercoaster but then dropped in subsequent years. The applicant confirmed that visitor numbers only briefly exceeded 700,000 in 2015 when the first rollercoaster opened before stabilizing at around 600,000 visitors in the following years."

The Transportation Department concluded that the "projected annual and peak day visitor numbers, including the traffic impact, presented with this application will not be greater than previously permitted for the site". Also, that "the junction modelling shows that some junctions in the vicinity of Tayto Park are operating at capacity" but the assessment has concluded "the proposed development would not have any material impact on traffic.

Mitigation measures are proposed: extended opening hours, reducing the number of people exiting the park following park closure.

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 11th day of March, 2020 and by the further received by An Bord Pleanála on the 17th day of August, 2020, 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. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions. Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for written agreement.

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

4. Details of the materials, colours and textures of all the external finishes to the proposed development 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 construction of the development shall be managed in accordance with a Construction Environmental 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 for dust, noise and vibration, waste management, protection of soil and groundwaters and protection of flora and fauna.

Reason: In the interest of sustainable waste management.

6. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

8. All trees [and hedgerows] within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
 - (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
 - (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged, or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interest of visual amenity.

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.

Reason: To control dust emissions arising from the development and in the interest of the amenity of the area.

11. All refueling shall take place in a designated refueling area at least 30 metres from watercourses, details of same to be included in the Construction Environmental Management Plan.

Reason: In the interest of environmental management.

12. 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 of any remains that may exist within the site.

13. (a) The construction works shall be carried out in accordance with the noise guidance set out by BS 5228- 1:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites.
- (b) During the construction phase noise levels at noise sensitive locations shall not exceed 70 dB(A) between the hours of 0800 to 1900 Mondays to Fridays inclusive, and between 0800 to 1400 hours on Saturdays and 45 dB(A) at any other time. Deviation from these levels will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

14. (a) The noise levels generated during the operation of the development shall not exceed 55 dB(A) Leq,1hr when measured at the nearest noise sensitive receptor. When measuring the specific noise, the time shall be any one-hour period during which the sound emission from the development is at its maximum level. The noise sensitive monitoring locations should be expanded to include monitoring at noise sensitive receptors and monitoring should be scheduled to take place during peak visitor times.
- (b) The developer shall prepare a Noise Management Plan for the entire development which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) All operations shall cease use where on-going breaches of noise limits are exceeded in order to provide adequate mitigation, in combination with monitoring and enforcement.

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

15. 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.

16. 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 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.

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

Dated this day of 2021.