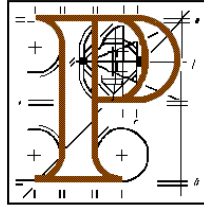


An Bord Pleanála



Inspector's Report

Proposed Development: Vehicle services facility, wastewater treatment system with percolation area and ancillary site works at Kingswood Road, Brownsbarn, Dublin 22.

Planning Application

Planning Authority: South Dublin County Council
Planning Authority Reg. SD15A/0264
Applicant: Keenan Refrigerated Trailers limited
Type of Application: Permission
Planning Authority Decision: Grant Permission with Conditions

Planning Appeal

Appellant(s): Hugh O'Daly
Type of Appeal: Third Party Vs Decision
Observers: None

Date of Site Inspection: 23/02/2016

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site, 2.156Ha, is a parcel of land located contiguous to the M7 motorway immediately north-west of the Old Naas road in Brownsbarn which is the access to the site.
- 1.2 The site is currently been used as a parking area for the construction workers on a site directly opposite the subject site and Steeltech Gardens Sheds operate a corner of the site. The site is adjoining an existing truck service area with access off the Old Naas Road from Junction 2 southern roundabout of the Naas N7. The Old Naas Road runs through a residential area prior to the site access.
- 1.3 The site is currently flat, hard surfaced and enclosed with palisade fencing.

2.0 PROPOSED DEVELOPMENT

- 2.1 The public notices describe the proposal as a new vehicle service facility (Floor area: 1497sq.m.) new wastewater treatment plant with percolation area and ancillary site works. The proposal is for seven 'drive through' servicing bays to accommodate the maintenance and repair of refrigerated trailers, standard trailers and commercial vehicles to the Irish haulage Industry. There is also an accommodation block proposed including amenities and stores.

3.0 SUBMISSIONS RECIEVED

Transport Infrastructure Ireland –

The development shall be strictly in accordance with the recommendations of the Traffic Impact Assessment.

Irish Water -

No objections

Mr. Hugh ODaly objected to the proposal on the same grounds as his third party appeal detailed below.

The local crèche and Montessori objected to the proposal on traffic grounds

4.0 TECHNICAL REPORTS

Water Services:

Details of attenuation design and calculations.

Parks and Landscape Services

It is important that the 3m wide planting strip is constructed at the width and depth as described in the submission documents. Conditions are prescribed.

Roads Department

There are concerns about generating additional HGV traffic through the increasingly residential area as a potential traffic hazard. However permission has been granted on this subject site previously.

The site layout is less than ideal with the location for parking cars and trucks, and separation of cars from trucks etc The applicant has not addressed the concerns from the previous planning application. It could be considered better if the site to the east was included with the application and further information should be requested.

The applicant is proposing road widening works, as were previously agreed under planning application SD06A/0737. The applicant has not taken the compliance from the previous application into account.

Lighting should be conditioned.

The proposed development is located in close proximity to a future road national road scheme. One likely repercussion is that the access to the N7 will be closed in the longer term. Further information is required.

Planning Report

- The principle of an industrial development is acceptable under the governing EP2 zoning objective.
- The use and design of the proposed industrial unit is consistent with the policies and objectives of the county development Plan.
- The proposal is similar in design and layout to the buildings on the adjoining site to the east. There is perimeter screen planting proposed for the south western portion of the site
- The issues raised by the Roads report can be dealt with by way of condition. Issues relating to cited Sd06A/0737 relate to a development on the opposite side of the road.
- The comments made by Transport Infrastructure Ireland should be sent to the applicant
- In the interests of consistency and to conform with the adjacent development currently under construction, SD15A/0083, it would be necessary to ensure screening continues along the perimeter of the site.
- The water and attenuation issues can be conditioned.
- The EHO has no objections to the proposed wastewater treatment proposals.
- The current site encompasses the entire site granted as part of register reference SD15A/0083 which is now under construction. The development will be accessed by the permitted entrance. The applicant has addressed the previous reason for refusal on the subject site.

5.0 PLANNING AUTHORITY'S DECISION

Kildare Co. Co. granted the proposed development subject to 17No. conditions which included a development contribution payable of €117,783.96.

6.0 APPEAL GROUNDS

Hugh O'Daly has taken this third party appeal against the planning authority's decision to grant permission for the development.

The proposal is for an additional HGV services facility on the site which will increase the number of heavy goods vehicles from 20 to 100 per day. The Traffic Impact report is an assessment of the traffic at the N7 roundabout which is the main access into Kingswood Village as a route to access the City west Business Campus. There has been no assessment of the impact of 100 additional HGVs per day on Kingwood village.

The Old Naas Road from the western end of Kingswood Village to the entrance into the application site is only 3.5metres wide for a distance of about 200metres. There is no footpath on either side of the Old Naas Road along this section which is hazardous for pedestrians.

There are 18No. houses in Silken Park Estate located along the the Old Naas Road. The 100 HGVs travelling to and from the application site will be an increased traffic hazard for vehicles entering and leaving the houses. There are cars on the side of the road, blocking the footpath and reducing the usable width of the road. There is an outstanding planning permission for more houses SD13A/0268 which will result in more houses fronting the Old Naas Road, these are located 100metres from the subject site.

The proposed development should be refused for the following reasons:

- Access is through a residential area, the Traffic Impact assessment referred to access from the N7 roundabout only. There is no assessment of traffic through Kingswood village which is more relevant.
- The Roads department expressed concerns regarding the traffic through a residential area.
- There is only a footpath on one side of the road through the entire village
- Access to the site is inadequate because 200metres of the Old Naas Road between Links crèche and the site is too narrow and is not wide enough for two way traffic
- Links crèche is located close to the subject site and served by the same road.

- Planning permission has been granted SD13A/0268 for 119No. houses on the Old Naas Road in Kingswood Village close to application site.
- There is already several HGV service facilities within Kingswood

Kingswood is a residential area, there are more houses under construction in Silken Park, along with planning permission for 119No. houses in the village.

The address for the site is incorrect and misleading. Kingswood road is in Citywest Business Road. The correct address is Old Naas road.

7.0 OBSERVATIONS

There were no observations received.

8.0 RESPONSES

8.1 The ***planning authority*** confirmed its decision and has nothing further to add to the planning report on file.

8.2 ***The Applicant's Response***

The site is currently used by both Ballinlough Refrigeration Ltd and Keenan Refrigerated Ltd under common joint ownership. The new facility will be used by Keenan Refrigerated Trailers Ltd exclusively and Ballinlough Refrigeration will revert to using the present facility exclusively.

Ballinlough Refrigeration contribute to 80 HGV's per day, the current use of the Keenan Refrigeration is 6HGV's per day. The current applicant will increase the number of HGV's per day by 4 or 4%. The total amount of traffic from the three sites will be 100 HGVs and presently Ballinlough have 80% of that figure per day.

The assessment of traffic existing and proposed was carried out by J.B. Barry Consulting Engineers. There will be no significant impact to the operation of the N7 Junction 2 southern roundabout.

The traffic report details the exact level of traffic that exits the roundabout heading into the village, and not all traffic will access Keenans.

The applicant had proposed to widen the access road from 3.5metres to 7.5metres but the planning authority included a condition that the width of the road should be reduced to 6.5metres.

There will be a footpath constructed as part of the permission to the car entrance to the property. It will not extend to the Naas Road junction.

Access to the site will be via Kingswood village as it currently the case. HGV facilities have exist in Kingswood since the 1990s.

9.0 PLANNING HISTORY

9.1 Subject site

SD15A/0099

A vehicle service facility floor area 1497sq.m. Refused planning permission on the subject site for one reason:

The applicant has not demonstrated sufficient ownership/ legal interest in the lands to the east to which the proposed development is dependent on for surface/ foul water systems and entrance details for heavy good vehicles. Without sufficient legal interest to ensure connections to surface/ foul water systems and adequate access, the development of a vehicle service facility accessed from a yet to be constructed new entrance on the adjoining site to the east, with connection to a new wastewater treatment system also on the adjoining site to the east, would be prejudicial to public health and would endanger public safety by reason of a traffic hazard.

SD15A/0083

Extension (floor area 480sq.m.) to existing vehicle service facility and new wastewater treatment system and percolation area and alterations to existing entrance granted planning permission.

Opposite side of road to subject site and currently under construction

SD06A/0737

A development being part of an overall permitted development under Reg. Ref. 90A/2340 at Citywest Business Campus. The proposed development consists of 10 no. office buildings comprised of 7 no. 3 storey buildings and 3 no. 4 storey buildings with a total floor area of approx 35,141sq.m. in a Business and Technology Park at Citywest Business Campus on a site area of 7.2 hectares located to the North West of the Campus, bounded to the South by Kingswood Avenue, to the north by the old Nass Road and to the North West by the Naas Road (N7) with 2 no. vehicular access points off Kingswood Road and 3 no. vehicular access points off Kingswood Avenue. The development also consists of all associated site development and infrastructural works, open space, landscaping, surface car parking, basement car parking under 4 no. blocks A1, A2, B1 and D1 and podium car parking in the North east of the site, ESB substations and service plant.

10.0 DEVELOPMENT PLAN

South County Dublin Development Plan 2010-2016

The site is zoned EP2 – *To facilitate opportunities for manufacturing, research and development facilities, light industry and employment and enterprise related uses in industrial areas and business parks.*

11.0 ASSESSMENT

- 11.1 There is a very recent planning history associated with the subject site, I refer to planning registrations **SD15A/0083** and **SD15A/0099**, and the relevant site maps, layouts and decisions are appended to this report. This is a very relevant issue relating to the current appeal.

SD15A/0083: Permission granted to Ballinlough Refrigeration Ltd for an extension (floor area 480sq.m.) to an existing vehicle service facility and new wastewater treatment system and percolation area. As stated the applicant was Ballinlough Refrigeration Ltd with company director specified as Joe Jordan on the planning application forms and a site area specified as 1.134Ha.

SD15A/0099: Permission was refused to Keenan Refrigerated Trailers Limited for a vehicle service facility (floor area: 1497sq.m.) accessed from new entrance as per planning application SD15A/0083, connection to new wastewater treatment system on neighbouring site as permitted under SD15A/0083 and all ancillary works. The applicant is stated as Keenan Refrigerated Trailers Limited with the company director stated to be Thomas Keenan and the site area specified as 1.0679ha.

In both of the above instances the applicant was stated to be the legal owner of the site.

- 11.2 Under the current proposal the subject of this appeal, the applicant, Keenan Refrigerated Trailers Limited has applied for planning permission for their own independent facility but has included Ballinlough Refrigeration Ltd. site boundaries. It is my understanding from the appeal file that both businesses occupy the one site at the present time. The total site area of the subject site is 2.156Ha, which includes the site area of the two planning applications cited above. Section 10 of the accompanying planning application form cites Keenan Refrigeration as the legal owner of the site, yet under SD15A/0083 above, the eastern portion of the site is owned by Ballinlough Refrigeration.
- 11.3 Under the terms of the Manager's Order relating to the current proposal, the planning authority requires the current proposal to comply with the relevant conditions attached to SD15A/0083 specifically condition No. 3 relating to road improvements. I have examined the drawings and the

content of the planning application SD15A/0083, and I am not clear on the relationship between the permitted development on the site to the east and the current proposal, as they are both two independent applicants, and yet it would appear they will share an entrance, share road improvements yet would appear to have separate buildings and wastewater treatment plants.

- 11.4 I do not wish to appear confusing, therefore in simplistic terms, the subject site of this appeal also includes another development and site granted planning permission for a similar development, SD15A/0083 to a different applicant. This is not clearly indicated on the drawings and I would question the validity of this appeal. The application drawings are incorrect in my opinion, and the drawings are misleading. There should be a clear distinction between both sites and development proposals. In terms of the proposed wastewater treatment plant, both proposals presented different treatment plants, yet under the current appeal the accompanying site suitability report refers to the applicant as Ballinlough Refrigeration Limited only, with no reference to the applicant.
- 11.5 The proposed entrance for trucks, trailers, and vans shall be one large entrance to serve both Keenan Refrigerated Trailers Ltd and Ballinlough Refrigeration Ltd. The new entrance was permitted under SD15A/0083, with the two pre-existing and residual entrances to accommodate cars and pedestrians. In my opinion this is an excessive number of entrances to cater for both sites, and will lead to confusion along the narrow stretch of road. There is another transport company to the north east of the subject site operated by McClean Transport. The Traffic and Transport Assessment Report states the client is Ballinlough Refrigeration Ltd. The report was prepared by Barry and Partners. The same report was submitted to the Board on appeal by the Keenan Refrigerated Ltd.'s agent. The proposed development is described in the accompanying report as the addition of 6 bays to an existing 6 bay unit relating to truck repair, with no reference to the current proposal of a stand along unit to accommodate 7No. new bays. Again, there are too many anomalies in the submission documents and duplicated use of the submission documents from SD15A/0083 which relates to a different site, development and applicant.
- 11.6 The planning application as presented along with the submission documents is unacceptable. There needs to be a clear legal distinction between both applicants, both sites, both proposals and legal agreements to shared facilities. I refer to the Planning Report on file which states the current proposal compasses the entire site and that the applicant has addressed the previous reason for refusal cited under SD15A/0099 relating to ownership/ legal interest in the lands to the east by incorporating the lands to the east into the site, and ensuring the current proposal progresses in accordance with the requirements of SD15A/0083. I cannot establish how the applicant overcame the previous reason for refusal or how the conditions imposed by the planning authority under the current proposal are implementable and enforceable.

- 11.7 In terms of the development plan, the subject site is zoned **EP2- to facilitate opportunities for manufacturing, research and development facilities, light industry and employment and enterprise related uses in industrial areas and business parks**. The proposed development is an industrial development and this use is permitted in principle under the EP2 zoning objective governing the site. The existing and permitted uses on the contiguous lands are similar to the proposed use, therefore granting permission for the use on this site is consistent with development plan policies, existing landuses and the planning history of the area.
- 11.8 The Roads Report on file refers to compliance with a planning registration No. SD06A/0737 which is for a large office development located on the opposite side of Old Naas Road to the subject site. The cited case is accessed from the City West complex and not the Old Naas Road, therefore in my opinion, this is an incorrect reference, and leads to further confusion regarding the upgrading of the road. I consider it is vital the Old Naas Road is upgraded to accommodate the high level of HGVs accessing the vehicle service sites, however under the terms of the permitted development there are further anomalies in that the submitted drawings state (Drawing 15/208/32 the road will be widened as per SD15A/ 0083) to 5.5 metres and 6.5metres from the existing 3.5metres, however the site boundaries of SD15A/0083 do not extend westwards to include the western portion of the site area therefore I do not believe the condition can be imposed as it relates to road widening outside of the site boundary. This would be a vital requirement in terms of the provision of a large scale HGV servicing facility on both sites having regard to the narrow access road currently servicing the sites, which in my opinion in its current state is unacceptable in traffic safety terms.
- 11.9 I note Transport Infrastructure Ireland indicated that direct access on the N7 off the old Naas Road at the western extremity of the subject site would most likely be closed in the longterm proposals for the N7. I note the Traffic Impact study stated the design of the entrance to both developments would be angled to restrict access from the site onto the N7, therefore all traffic will be directed through the village and onto Junction 2 roundabout of N7.

12.0 RECOMMENDATION

I recommend the planning authority's decision to grant be overturned by the Board

REASONS AND CONSIDERATIONS

On the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the application has been made by a person who has

(a) sufficient legal estate or interest in the land the subject of the application to enable the person to continue the existing use of, or carry out the proposed works on the land, or

(b) the approval of the person who has such sufficient legal estate or interest.

In these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development the subject of the application.

Caryn Coogan

Planning Inspector

03/03/2016