



An
Bord
Pleanála

Inspector's Report

PL17.247077

Development	The amalgamation of Unit 6 and Unit 7 into 1 no. retail warehouse unit and provision of a mezzanine floor
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	NA160570
Applicant(s)	Targeted Investment Opportunities ICAV
Type of Application	Permission
Planning Authority Decision	Grant
Appellant(s)	Liz Egan, Diamond Cinemas Ltd, Paul Egan.
Observer(s)	none
Date of Site Inspection	24 October 2016
Inspector	Patricia Calleary

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Assessment	3
3.1. Decision	3
3.2. Planning Authority Report	4
3.3. Internal Technical Referrals	5
3.4. Prescribed body referrals	5
3.5. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	7
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. First Party Response.....	10
6.3. Planning Authority Response	10
7.0 Assessment.....	11
7.1. Introduction	11
7.2. Principle of the Development	11
7.3. Retail Impact	12
7.4. Design and Layout	13
7.5. Access and Car parking	13
7.6. Other – S.48 Development contributions	13
7.7. Appropriate Assessment	14
8.0 Conclusion and Recommendation.....	14

1.0 **Site Location and Description**

1.1. The appeal site consists of 2 units in an existing retail park known as Navan retail Park located in Townparks, Navan. The retail park itself is positioned off the M3 motorway at junction 9, along the N51 (Athboy road). Tara Mines headquarters is located c.250m to the north west. Access is via a roundabout along the N51 with connecting roads to the town centre, c. 1km to the east. In total, the retail park consists of 10 no. retail warehouse units which include Homebase, Halfords, Smyths Toys, TK Maxx and DID Electrical. Units No.s 6 and 7 which form the appeal site are unoccupied. The retail warehouse park is serviced by existing public infrastructure and there is significant surface car parking available to the front (south) of the buildings. There are no residential properties in the immediate vicinity of the site, however, there is a small housing scheme with c.16 houses, known as St. Patricks park, located south of the N51 which fronts the site.

2.0 **Proposed Development**

2.1. The proposal would comprise the amalgamation of 2 existing units, which are currently vacant, into a single retail warehouse unit. It would also comprise the provision of a mezzanine floor (c. 595 sq.m) within the enlarged building. The overall building would result in an enlarged unit with a total GFA of 2227 sq.m including the mezzanine floor.

2.2. The Planning Application was accompanied by a cover letter and a planning statement prepared by Downey Planning, acting on behalf of the applicants.

3.0 **Planning Authority Assessment**

3.1. **Decision**

The Planning Authority issued a decision to grant permission subject to 3 conditions, summarised as follows:

- Condition 1: Development to be carried out and completed in accordance with the plans and lodged with the application, save as may otherwise be required to comply with the remaining conditions;
- Condition 2: Notwithstanding the exempted development provisions afforded, no changes permitted without a grant of permission, or where the changes are minor, without agreement with the PA;
- Condition 3: Operation of the unit limited to the sale of bulky household goods as defined by the Retail Planning Guidelines and details of the occupier to be submitted to the PA for agreement;

3.2. **Planning Authority Report**

The Planning Officer's assessment referred to the planning history, planning policy and summary of third party submissions. The assessment considered key planning considerations summarised under:

- PA consider that the end user does not need to be identified at this stage but must comply with the definition of 'Bulky good' which would be referenced by condition; Noting resultant floor area, the development would remain compliant with a condition attached to permission NA40525 in terms of specified floor area;
- PA is satisfied that the works would not conflict with the RPGs or the Navan Development Plan;
- External appearance would remain largely unaltered and be consistent with the design throughout the retail park;
- Access and car-parking considered acceptable;
- No issues in respect of residential amenity;
- Foul sewer and watermain services are existing;
- Having regard to nature of the development and the same footprint, appropriate assessment is not required;

- No additional requirement for levies;

A recommendation to **grant permission** issued.

3.3. **Internal Technical Referrals**

- The planning application was not referred to internal departments

3.4. **Prescribed body referrals**

- The planning application was not referred to any prescribed bodies.

3.5. **Third Party Observations**

Submissions were received from four third parties. The principal concerns raised are set out under:

- Development will impact negatively on the viability and vitality of the town centre;
- Development will be exclusively reliant on car based transport;
- Use of floor space would be unenforceable;
- Potential end user is a material planning consideration given the potential nature of goods sold;
- Permission has been refused at this location for the sale of non-bulky goods.

4.0 **Planning History**

There are a number of planning history files brought which are relevant within the same retail park.

- **NA160777/PL17.247370** – Navan county council issued a decision to grant permission for the provision of a mezzanine floor of 773. 5sq.m and remove rear roller door at Unit 10, Navan retail park (**currently on appeal**).

- **NT/110074**– Navan County Council **granted permission** for the inclusion of a mezzanine floor for storage and staff accommodation (482m²) and the erection of 2 No. signs at unit 2A, Navan Retail Park previously permitted under reg. ref. NA40525, NA60572, NA70447.
- **NT130062/PL17.243578** – Following a decision to **grant permission** to amalgamate 3 no. units (8,9,10) to form a 9 screen cinema - An Bord Pleanála subsequently **refused the permission**.
- **NA/801922** – **permission granted** for retention of alterations of development previously approved under MCC Reg Ref: NA/40525, NA/60572 and NA/70447 together with 2 no. sub stations.
- **NT120079 / PL32.241635** – **permission granted** for the amalgamation of Units 3 and 4 and the erection of a mezzanine floor within the unit and change of use to accommodate a shop-major. **Appeal subsequently dismissed**.
- **NA 70447** – **permission granted** for modifications to previously permitted retail warehouse development under MCC Reg Ref: NA/40525 and NA/60572.
- **NA801282** - **permission granted** for the inclusion of a mezzanine floor of approx. 447 sq.m. and the replacement of the rear elevation vehicular roller shutter door with a pedestrian door at unit no. 5 of the retail park development previously granted permission under Meath County Council Reg. Ref. NA/40525.
- **NA 60572** - **permission granted** for modifications to previously permitted retail warehouse development under MCC Reg Ref: NA/40525.
- **NA 40525** - **permission granted** for the demolition of habitable house and associated structures and the construction of a retail warehouse development;

5.0 Policy Context

5.1. Navan Development Plan 2009-2015 (incorporating Variation No.1)

- **Zoning** - The site is shown shaded a blue colour on the Land Use Zoning Objectives Map (Map No.1) as varied on 19th May 2014. However, the map legend has a different colour (lilac) for retail park zoning. The Planning Authority confirm in their response to the appeal that the site is zoned '**B2 – To provide for the development of a retail warehouse park**'.
- **Vision Principles** – Sustainability, competitiveness, quality of life, quality of environment, social inclusion.
- **Settlement Strategy** – supports the development of Navan as a large growth town (**POL1**) and as a self-sustaining centre (**POL 2**);
- **Retail Policies** are set out under **Section 4.5.3. RET DEV POL 2** (Protect vitality of Navan town) and **RET DEV POL 3** (sequential approach to retailing) are relevant to this appeal. **RET DEV POL 14** – To restrict retail warehousing development solely for the sale of 'bulky comparison goods.
- **Appendix 5 - Meath County Retail Strategy (Appendix 5 of Meath County Development Plan 2013-2019) –S.8.2.9** Navan is regarded as a level 2 Major Town Centre within the retail hierarchy being the only level 2 retail centre in County Meath and where such a level should '*offer the widest access to shopping activities for the greatest number of people*'. **S 8.3.3** - Additional demand for comparison retail floor space will be promoted in towns including Navan. **S.3.4.38** recognises that the retailing of bulky goods is reliant on car parking and is frequently not suited to town centre sites. **Section 9.3.15** – Range of goods sold in existing or planned parks should be restricted to bulky goods (as per the RPGs definition). **Section 9.3.16** – Individual retail units should not be less than 700 sq.m or more than 6000 sq.m.

5.2. Retail Planning Guidelines 2012

- The RPGs recommend that retail activity be directed to the town centre and states that where it is not possible due to form and scale of a development then consideration can be given to edge of town;
- Provides a definition for a retail warehouse as *‘a large single-level store specialising in the sale of **bulky household goods** such as carpets, furniture and electrical goods, and bulky DIY items, catering mainly for car borne customers’*;
- Provides a definition of bulky goods: *‘Goods generally sold from retail warehouses --where DIY goods or goods such as flat pack furniture are of such size that they would normally be taken away by car and not be portable by customers travelling by foot, cycle or bus, or that large floor space would be required to display them’*.
- Provides a non-exhaustive list of bulky goods and states that ancillary products are acknowledged up to 20% of total net floor area.

5.3. Regional Planning Guidelines 2012

- Recognises Navan as a primary growth centre;

5.4. Retail Strategy for the Greater Dublin Area 2008

- Navan is defined as a Level 2 centre within the retail hierarchy for the GDA and places importance on such centres offering the widest access to shopping activities for the greatest number of people.

6.0 The Appeal

6.1. Grounds of Appeal

Third party appeals were received from three parties which include Liz Egan, Diamond Cinemas Ltd. and Paul Egan. The three appeals have the same content and the principal grounds are summarised below.

- The development would be inconsistent with the Retail Planning Guidelines and the Navan County Development Plan which promote town centre and retail development outwards on a sequential basis;
- Would be contrary to Guidelines on Spatial Planning and National Roads and Smarter Travel: A Sustainable Transport future, both which advocate a restriction of out of town retail centres.
- Development would be contrary to Condition no.2 of the original planning consents which state that combining single units into a larger unit shall not be permitted;
- Area should be restricted to 'bulky goods';
- Vacancy of commercial buildings for Navan is 12.7% which is higher than Meath (10.3%) or the national average (13.1%). (Ref: Geoview);
- Would not be consistent with Objective B4 (zoning) and Retail POL 2 because of its impact on the town centre and increased car journeys;
- Cannot be certain that the larger unit would remain as bulky goods trading;
- Site is 'out of town' and not 'edge of town' which is not connected with the town centre by public transport. It would be heavily dependent on car based trips. A review of bus timetables is included with the appeal;
- Navan Retail Strategy illustrates a high level (40%) of retail expenditure leakage;
- Previous precedents – PL17.244686 / NT110064 (construction of a cinema theatre complex) considered respective developments were contrary to proper planning;

Each appeal was accompanied by 11 appendices including Geoview reports, information on new bus hub from MCC, Bus Éireann and Meath Flexibus Timetables, Meath Census and Wexford Census extracts 2011; Navan Retail park brochure.

6.2. First Party Response

The Board received a response from Downey Planning on behalf of the first party. The main points included are summarised under as follows:

- No change of use is proposed, use of the units in the planning application remains for the sale of bulky goods as defined in the RPGs 2012;
- Applicant would welcome a planning condition regarding the occupation of the unit to be for bulky goods (including 20% ancillary products);
- Amalgamated unit would meet the floor threshold / cap of 6000 sq.m and also meets retail development policy RET DEV POL2;
- Navan Retail Park affected by vacancy including the 2 appeal units. Greater choice and flexibility would be more attractive to prospective tenants and crucial in preventing leakage to competing centres;
- Proposal seeks works to existing retail warehousing space which would not compromise the vitality and vibrancy of the town centre;
- The retail park has a sufficient quantum of car parking (stated as 900 spaces in the planners report and 1100 in the applicant's response to the appeal) and is highly accessible with a good road network;

6.3. Planning Authority Response

The Planning Authority submitted a response to the appeal which is summarised under:

- Contrary to appellants' submissions, the site is **not zoned B4** but is instead **zoned B2** with a stated objective *'To provide for the development of a retail warehouse park'*;
- PA consider that the identification of an end-user is not required at this stage save to acknowledge that the end user must comply with the definition of a bulky good and the PA restated a condition relating to this requirement in their decision;

- RET DEV POL 3 and RET DEV POL 2 are relevant. Application does not propose a change of use and requirement for end user was restated to mirror requirement of parent condition;
- PA would not concur with the appellant that the proposed development would impact on the vitality of the town centre having regard to the definition of a bulky good.

7.0 Assessment

7.1. Introduction

7.1.1. The matter for determination in this instance relates to the amalgamation of two existing retail units to form one larger one within which a mezzanine floor would be added for storage and staff accommodation in scale. I consider the key issues arising in this case can be assessed under the following headings:

- **Principle of the Development**
- **Retail Impact**
- **Design and Layout**
- **Access and Car parking**
- **Other**
- **Appropriate Assessment**

I outline my assessment of each of those issues directly below.

7.2. Principle of the Development

7.2.1. The appeal site is located within an existing retail park. Within the current Navan Development Plan 2009-2015 (incorporating Variation No.1), the colours on the legend do not match those on the map for the specific appeal site. However, I am satisfied that the zoning has been confirmed by the Planning Authority as **B2** 'to provide for the development of a retail warehouse park'.

7.2.2. The use of the units was previously established for the trading of bulky goods and noting the concerns of the appellants, the amalgamation of the units would not by itself, alter the use. I concur with the planning authority that it is not necessary to identify the end user as any grant of permission would attach to the building rather than a user. A condition can be attached to a grant of permission so as to ensure the range of goods sold can be regulated and enforced. The resultant floor area at 2227 sq.m would lie between the minimum (700 sq.m) and the maximum (6000 sq.m) floor space limits which would comply with Condition 2 (a) of the parent permission (NA40525) and development plan policies.

7.2.3. The principle of the development for the trading of bulky goods fits within the **B2** zoning and having regard to the permitted use of the development, I am satisfied that the principle of the development is acceptable and in accordance with the proper planning and sustainable development of the area.

7.3. **Retail Impact**

7.3.1. This specific nature of the development is for the amalgamation of 2 previously retail warehouse units for the retailing of bulky goods and the addition of a mezzanine floor. The units are existing and are currently vacant having been previously permitted and therefore my assessment must only consider the scope of the current application which is to amalgamated them. The development plan has clear policies on directing convenience and other suitable retail into the town centre. **RET Dev Pol 2** seeks to protect and enhance the vitality of Navan town centre and its promotion as the main commercial core. The Plan recognises that retail warehousing may not be suited for town centre and may be developed at other locations. **RET Dev Pol 3** requires the adherence to the sequential approach to retailing and the application of retail thresholds to proposed development in line with the Retail Planning guidelines.

7.3.2. Having regard to the policies and objectives of the plan and the permitted and proposed use of the units for bulky goods, I consider that the proposal aligns with the applicable policies and objectives, including the retail strategy for Navan and the national Retail Planning guidelines. Accordingly, I consider the development is

acceptable from a retail perspective and would not negatively impact on the vitality of Navan town centre. I have arrived at this conclusion strictly based on the end use being bulky goods (with up to a maximum of 20% ancillary goods as set out in the RPGs 2012).

7.4. **Design and Layout**

7.4.1. The proposed development would result in very little change in appearance when viewed externally. The changes would occur internally, where 2 units would be amalgamated and a mezzanine added. I consider the design of the enlarged unit would remain consistent with the overall retail park design. I note the signage proposed would be consistent with the general signage design within the park which I consider is acceptable from a visual amenity perspective.

7.5. **Access and Car parking**

7.5.1. The access to the development was previously permitted as part of the overall retail park and no changes are proposed in this application. Given that the use of the unit would not change from bulky goods (as defined in the RPGs), I consider the existing access to be acceptable. Car parking was previously considered at the assessment of the retail park and there is in excess of 900 spaces available. On the day of my inspection, the car park was largely empty. I do not consider that any car parking spaces would be required for the proposal to amalgamate 2 units and add a mezzanine floor where there is clearly no under-supply of parking evident at the retail park currently.

7.6. **Other – S.48 Development contributions**

7.6.1. The resultant development would not provide any additional **retail** floorspace as the mezzanine would be used for storage and staff accommodation. I concur with the Planning Authority that as there would be no additional demand on services, no development contributions would be applicable.

7.7. Appropriate Assessment

- 7.7.1. The site is not located within or directly adjacent to any Natura 2000 site. The nearest site is the River Boyne / River Blackwater SPA (Site Code 004232) and SAC Code: SAC (Site Code 002299) which lie c 600m north east of the site. It is of relevance to note that the proposed development would avail of existing public infrastructure with connections currently serving the units. The Planners report states that during the assessment of the parent permission (NA40525), the Planning Authority were satisfied that the development of the retail park would not impact upon the qualifying interests of the Natura 2000 site and no appropriate assessment was required. The current proposal does not involve any new construction or associated discharges beyond what has been permitted.
- 7.7.2. Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Conclusion and Recommendation

Further to the above assessment of matters pertaining to this appeal, including the consideration of the submissions made about the appeal and my site inspection, I recommend that permission be **granted** for the reasons and considerations outlined in the following draft order.

Reasons and Considerations/ Reasons

Having regard to the zoning of the site as set out in the current Development Plan for the area, to the planning history of the wider retail warehouse park, to the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in

terms of traffic safety and convenience. 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.

Reason: In the interest of clarity.

2. The range of goods to be sold in the enlarged unit shall be limited solely to “bulky goods” (as defined in Annex 1 of the Guidelines for Planning Authorities Retail Planning issued by the Department of the Environment, Community and Local Government in April, 2012).

Reason: In order to prevent an adverse impact on the viability and vitality of the established retailing facilities within this area, and so as not to undermine the retail hierarchy of the Navan town.

3. No advertisement or advertisement structure, other than those shown on the drawings submitted with the application, shall be erected or displayed on the building in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

Patricia Calleary
Senior Planning Inspector
01/11/2016

Appendix: Maps, Photographs and links to policy documents