



An
Bord
Pleanála

Inspector's Report

PL17.247370

Development

Provision of mezzanine floor, associated stair cores and ancillary staff areas. Removal of roller door and ope to be blocked up at the rear of the unit at Unit No.10, Navan retail park, Athboy road, Navan, Co. Meath.

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

NA160777

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

1.0 Site Location and Description

1.1. The appeal site comprises a retail warehouse unit in an existing retail park known as Navan retail Park which is located in Townparks, Navan, Co. Meath. The retail park itself is positioned off the M3 motorway at junction 9, along the N51 (Athboy road). Tara Mines headquarters are 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. Unit No. 10 which forms the appeal site is 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.

2.0 Proposed Development

2.1. The proposal would comprise the provision of a mezzanine floor (c. 773 sq.m) as well as associated stair cores and ancillary staff areas within an existing retail warehouse unit. The overall building would result in a unit with a total GFA of c.1702 sq.m including the mezzanine floor. In addition, the proposal includes the removal of the existing roller door located at the rear of the unit and blocking up the ope.

2.2. The Planning Application was accompanied by a cover letter and a planning statement prepared by Downey Planning.

3.0 Planning Authority Assessment

3.1. Decision

The Planning Authority issued a decision to grant permission subject to three conditions.

3.2. Planning Authority Report

The Planning Officer's assessment referred to the planning history, planning policy and summary of three third party submissions which were received. 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 the resultant floor area (1702 sq.m), the development would remain compliant with a condition attached to permission NA40525 in terms of specified floor area;
- References Policy RET DEV POL 3 (adherence to the sequential approach) and RET DEV POL 2 (protect and enhance vitality of Navan Town centre);
- 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;
- Noting the limited scope of the proposed development and its suitability from a technical perspective, PA is satisfied that the works are consistent with the overall retail park development and are acceptable in planning terms.

A recommendation to **grant permission** issued with three conditions.

3.3. Internal Technical Referrals

- Road Design: No objection;
- Water services: No report received.

3.4. Prescribed body referrals

- Irish Water: No response.

3.5. Third Party Observations

Submissions were received from Liz Egan, Paul Egan and Alan Latimer (Diamond Cinemas). The principal concerns raised include the following:

- Development would impact negatively on the viability and vitality of Navan town centre;
- Development would not be consistent with the provisions of Navan Town Development Plan 2009-2015;
- Zoning is B4 and not B2 (Retail Warehouse Park) – makes reference to PL17.243578 in this regard;
- Development would be exclusively reliant on car based transport;
- Includes reference to previous Board orders for refusals of large developments outside of the town centre and for a refusal by the Board in respect of Units 11,12 and 13.

4.0 Planning History

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

- **NA160570/PL17.247077** – Navan County Council issued a decision to **grant permission** for the amalgamation of Unit 6 and Unit 7 into 1 no. retail warehouse unit and the provision of a mezzanine floor at Navan retail park (currently on appeal at the time of writing this report);

- **NT/110074**– Navan County Council **granted permission** for the inclusion of a mezzanine floor for storage and staff accommodation (482 sq.m) and the erection of 2 No. signs at unit 2A, Navan Retail Park previously permitted under reg. ref. NA40525, NA60572 and 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 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. An appeal lodged was **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) of the Navan Development Plan 2009-2015 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 and is the only level 2 retail centre in County Meath, 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 is 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 a total net floor area of 20%.

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 principal grounds in the three appeals are collectively summarised below.

- The development would be inconsistent with the Retail Planning Guidelines and the current Navan Development Plan which promote town centre and retail development outwards on a sequential basis;
- Development would be outside of Navan's core area set out in the Navan current development plan. Application fails to recognise the role Navan town centre plays in contributing to Navan Centre as Meath's retail core and its contribution to the vibrancy of Navan;
- Proposed use would be contrary to Condition 2 of the parent permission under NA/40525 and subsequent permissions NA/60572, NA/70447 which stated that combining of individual stores into a single large unit would not be permitted and that the trading within the retail park should be limited to bulky goods only;
- It would be illogical to risk closure of further established Navan businesses in favour of a speculative proposal in an isolated out of town area;
- States that the zoning is B4 and not B2 as put forward in the applicants planning statement and the development would not be supported by this zoning.;
- Retail Development POL 2 does not support the development. RPGs have a stated presumption against out-of-town retail centres;
- Development would not create jobs but could lead to a relocation of existing jobs in the town centre and lead to more vacant properties in the town;
- 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;
- Vacancy of commercial buildings for Navan is 12.7% which is higher than Meath (10.3%) or the national average (13.1%). (Ref: Geoview);
- 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 and theatre complex was considered to be 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 and a 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:

- Condition No.2 attached to the parent and subsequent revised permissions regulating the use of the units does not prevent the PA or the Board to consider alternative planning applications;
- No change of use is proposed, use of the units in the planning application would remain 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 as allowed for under the RPGs);
- Altered unit would meet the floor threshold / cap of 6000 sq.m and comply with retail development policy RET DEV POL 2;
- Navan Retail Park is 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 to carry out works to existing retail warehousing space which would not compromise the vitality and vibrancy of the town centre;
- The RPGs reinforce the location of retail parks and retail warehouses at out-of-town centre locations;
- The retail park has a sufficient quantum of car parking¹ and is highly accessible with a good road network;
- Majority of precedents referenced are for cinema developments throughout the country.

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.

¹ Car parking is stated as 900 spaces in the planners report and as 1100 in the applicant's response to the appeal.

7.0 **Assessment**

7.1. **Introduction**

7.1.1. The matter for determination in this instance relates to the provision of a mezzanine floor, associated stair cores and ancillary staff areas together with the removal of a roller door and the blocking up of the ope at the rear of the unit. 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 a retail warehouse unit located within an existing retail park. On the Zoning Objectives Map (Map No.1) of the current Navan Development Plan 2009-2015 (incorporating Variation No.1), the colours used in 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 unit was previously established for the trading of bulky goods and noting the concerns of the appellants, the addition of a mezzanine floor (c. 773 sq.m) or the ancillary elements would not result in the use being altered. 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 c.1702 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. The unit is existing and is currently vacant having been previously authorised under its parent permission and therefore my assessment must only consider the scope of the current application which is to add a mezzanine floor, stairs and to remove a roller door. The development plan has clear policies on directing convenience and other suitable retail development 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 also 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 unit for the sale of bulky goods, I consider that the specific proposal to add a mezzanine floor aligns with the applicable policies and objectives, including the retail strategy for Navan and the national Retail Planning guidelines. Accordingly, I consider the specific development is acceptable from a retail perspective and would not by itself negatively impact on the vitality of Navan town centre. I have arrived at this conclusion strictly based on the end use continuing to be for trading of bulky goods (with up to a maximum of 20% ancillary goods as set out in the RPGs 2012) which has been stipulated by condition in previous permissions.

7.4. **Design and Layout**

7.4.1. The proposed development would result in very little change in appearance when viewed externally apart from blocking up of a roller door to the rear of the unit. The changes would occur internally. In relation to signage proposals presented on the drawings, I consider that the scheme 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. Given the quantum of parking available and the evidence that there is no shortage of supply, I do not consider that any car parking spaces would be required for the proposed development.

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

7.6.1. The resultant development would not provide any additional **retail** floorspace at ground floor level. 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 limited nature and scale of the proposed development, the nature of the receiving environment and the 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 below.

9.0 **Reasons and Considerations/ Reasons**

Having regard to the zoning of the site as set out in the Navan Development Plan 2009-2015, to applicable retail policies, to the planning history pertaining to Unit No. 10 and 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, would be acceptable in terms of traffic safety and convenience and would not result in a decline in the commercial vitality of Navan town. 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
30/11/2016

Appendix: Maps, Photographs and links to policy documents