



An
Bord
Pleanála

Inspector's Report ABP-300981-18

Development	An extension to Newbridge Courtyard shopping centre
Location	Newbridge Courtyard Shopping Centre, Edward Street, Newbridge, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	17/488
Applicant(s)	Treacy Courtyard Development Ltd.
Type of Application	Permission
Planning Authority Decision	Granted Permission with Conditions
Type of Appeal	First Party
Appellant(s)	Treacy Courtyard Development Ltd.
Observer(s)	None.
Date of Site Inspection	23 rd of May 2018
Inspector	Caryn Coogan

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1.0 Site Location and Description

1.1. The subject site is located in the centre of Newbridge town. It is directly linked to the Newbridge Courtyard Shopping Centre which is to the east of the site. To the south is Athgarvan Road and Lidl. There are a number of multi-storey car parks to the east also serving the commercial hub of Newbridge including shops and a multiplex cinema. The site is currently a brownfield site within the centre of Newbridge alongside an existing shopping precinct.

2.0 Proposed Development

- 2.1. The proposal is for an extension to the existing Newbridge Courtyard Shopping Centre in the centre of the town. The site is 0.4574Ha, and the gross floor area of the proposed works is 11,226sq.m. involving the demolition of 674sq.m.
- 2.2. There are 6No. apartments proposed, and a retail and carpark area of 10659sq.m. which will include 6085sq.m. of retail space on ground, first and second floors

3.0 Planning Authority Decision

3.1. Decision

Condition No. 11:

Prior to the Commencement of the development the applicant shall submit for the agreement of the planning authority, a detailed design for the full extent of the link from the Athgarvan Road to Edward Street. The applicant shall carry out all necessary topographical, drainage and utilities surveys for the detailed design to be completed. All costs associated with the drainage design shall be borne by the applicant.

Condition No. 15

Within one month of the occupation of the development the developer shall submit for the written agreement of the Planning Authority the following:

A full revalidation of SCOUT UTC system that operates in Newbridge and all junctions/ pelican crossing operations reviewed in order to minimise the impact of the development on existing detectors, SCOOT validation and commissioning.

This shall include but not limited to:

- a) A desktop review of the SCOOT data base and setting/ configuration,
- b) A review of the operation of the junction identifying and issues/ possible improvements physical or otherwise,
- c) Implementing any works identified as parts of Items A and B above,
- d) A full revalidation of SCOOT junctions in Newbridge including: T134 Moorfield Road/ NIRR T138/ T139 NIRR – Whitewater/ Newbridge Industrial estate, T139 NIRR/ Athgarvan Road, T140/T141 NIRR/ Cutlery Road, NIRR/ Kilcullen Rd, T131 NIRR/ Liffey Bridge, T133 Cutlery Road/ Main Street, T 132 Main Street/ Charlotte St.

Condition No. 16

Prior to commencement of development the developer shall submit for the written agreement of the Planning Authority a proposal for the upgrade of existing CCTV locations in the vicinity of the development.

- a) The upgrade of the following CCTV locations: T134 Moorfield Road/ NIRR, T138 NIRR/ Newbridge Industrial Estate, T139 NIRR/ Athgarvan Road, T140 and T141 NIRR/ Cutlery Road – NIRR/ Kilcullen Road, T131 NIRR/ Liffey Bridge, T132 Main Street/ Charlotte St, T133 Cutlery Road/ Main St.
- b) The provision of 180 degree multi sensor CCTV Camera and a PTZ CCTV Camera in locations listed above and in accordance with the requirements of Kildare Co. Co. Traffic Management Centre.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There is a detailed planning report on file outlining the proposal, the site, internal reports, planning histories, development plan and assessment.

3.2.2. Other Technical Reports

The Roads and Transportation report of 22nd of January 2018 is the most relevant to the current appeal.

3.3. Prescribed Bodies

Irish Water was the only notified prescribed body to reply and it had no objections to the proposal.

3.4. Third Party Observations

A number of submissions were received which called for the planning authority to have regard to certain sections of its developments plan in assessing the application.

4.0 Planning History

There is no relevant planning history associated with the subject site.

14/813

Permission granted to OPW for removal of signs

15/819

Permission granted to Courtmount Properties for an extension to retail park.

16/670

Permission granted to Courtmount Properties Ltd revisions to site boundaries

09/1157

Permission for a Lidl to the south of the site.

5.0 Policy Context

5.1. Development Plan

The site is zoned TOWN CENTRE in the current *Newbridge Local Area Plan* 2013-2019. This objective is 'to provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use'.

The Retail Strategy and the development plan seeks to sustain and enhance the role and importance in regional and national hierarchies the role of Newbridge.

Under the Kildare County Development Plan 2013-2019 the following chapters are relevant:

- Chapter 6 Retail
- Chapter 15 Urban Design Guidelines
- Chapter 17 Development Management Studies
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6.0 The Appeal

6.1. Grounds of Appeal

The applicants have appealed three conditions No.s 11, 15 and 16 attached to their planning permission. (The conditions are outlined in full under Section 3.1 Planning Authority's Decision of this report).

Condition 11 is appealed as part of the roadway falls outside of the applicant's ownership and the applicant has no legal right to obtain access to the lands to carry out the topographical studies, utility investigates, or ground condition surveys. The applicant can deliver the roadway which falls within their own ownership.

The revalidation of the SCOOT system is best carried out by the owners of the system, which is Kildare Co. Co., the applicant nor their agents have the necessary skills to carry out the revalidation process which is generally carried out by expert consultants under contract form the planning authority. Furthermore, the revalidation will benefit the entire town, so it is appropriate for the local authority to carry out the revalidation process.

The upgrade of the CCTV is not a specific necessity of the applicant's proposal and their upgrade of the CCTV will benefit the entire town of Newbridge.

The three conditions appealed are extreme when taking into consideration the size of the development. The Traffic Impact Statement prepared by Arup showed that up

to 2035 the development will have negligible effect on existing traffic flow within Newbridge town.

6.2. **Planning Authority Response**

The planning authority states on appeal that the main issues relating to the conditions are included in the Roads Report on file dated 22nd of January 2018.

Additional comments are as follows:

- **Condition No. 11**

The condition is required to ensure that there is full continuity in the design of the link street to DMURS standards from the Athgarvan Road to Edward Street. The section of the link is outside of applicants ownership, and was constructed some time ago to standards below the DMURS standards. If the condition is removed it will result in the incomplete design of the link street from Athgarvan to Edward Street.

- **Condition No. 15**

The condition is required to ensure additional traffic on the existing road network is minimised. There are serious traffic issues and queuing on Newbridge Main Street. The increase in traffic predicted at the six junctions affected by the proposal stated the increase would be from 6.1% to 14.4%. These conditions have been sued for other developments including Dunnes and the applicant appointed a consultant to carry out a revalidation of the SCOOT system on the junctions near the Dunnes development.

- **Condition No. 16**

Same response to Condition No. 15, The condition is required to ensure additional traffic on the existing road network is minimised. There are serious traffic issues and queuing on Newbridge Main Street. The increase in traffic predicted at the six junctions affected by the proposal stated the increase would be from 6.1% to 14.4%. These conditions have been sued for other developments including Dunnes and the applicant appointed a consultant to

carry out a revalidation of the SCOOT system on the junctions near the Dunnes development.

6.3 Applicant's response to Planning Authority Response

ARUP prepared a response to the planning authority's response, and there were no issues raised.

Condition 11 cannot be imposed as it involves lands outside the ownership of the applicant.

Condition No. 15 indicated predicted minor increases in traffic movements as a result of the proposed development up to 2034. The SCOOT system in its current setup or as modified by other developments is capable of accommodating the additional traffic. It is not considered necessary to modify the SCOOT Urban Traffic Control Region.

Condition No. 16 The impact of the proposed development across the road network is considered to be minor and it is not considered warranted to upgrade the existing CCTV in this instance.

7.0 Assessment

7.1. It is not necessary to assess the entire development proposal which has been granted by Kildare County Council. The planning authority is satisfied with the principle of the development proposal at this location which is in keeping with the prevailing development plans and the pattern of development in the area. I would concur with the planning authority's decision to grant permission for the proposed development. The Board will review the three conditions under appeal only and a full reconsideration of the proposal is not warranted in this instance.

7.2. On appeal the applicant has argued that the three conditions are extreme having regard to size of the development and that the Traffic Impact Statement accompanying the planning application demonstrated there will be a negligible effect on existing traffic flow within Newbridge town.

7.3 Condition No. 11

Prior to the Commencement of the development the applicant shall submit for the agreement of the planning authority, a detailed design for the full extent of the link from the Athgarvan Road to Edward Street. The applicant shall carry out all necessary topographical, drainage and utilities surveys for the detailed design to be completed. All costs associated with the drainage design shall be borne by the applicant.

On my inspection, I walked the existing link from Edward Street to Athgarvan Road. It involves a pedestrian link between a multi-storey carpark and the side elevation of the TK Maxx building. It is not supervised or exposed, and could lead to anti-social behaviour. It would benefit from upgrading, and perhaps would be utilised more. However, I agree with the applicant's grounds of appeal, to facilitate the necessary improvements required to upgrade the link to DMURS standards, the works/ site involved are outside of the ownership of the applicant. There is a more effective link can be created via the Lidl supermarket access road, through the subject site, and towards Edward Street at the Credit Union. Unfortunately, this cannot be provided/ or completed by the applicant as it involves lands outside of the ownership. I note from the Roads and Transportation Section Report dated 22nd of January 2018, a condition was recommended that the applicant construct the full extent of the link street covered under Objective SRO 8(a) of the Newbridge LAP 2013-2019 within the lands under the applicant's ownership as shown on Drawing No. 4980-15-001. As this element of the link is included on the proposed drawings, Condition No. 1 will cover completion of the condition in accordance with the Roads Section Requirements.

Presently, given the current landownership constraints associated with the link onto Edward Street alongside Newbridge Credit Union, Condition No. 11 is unenforceable and should be removed from the schedule of conditions.

7.3. Condition No. 15

Within one month of the occupation of the development the developer shall submit for the written agreement of the Planning Authority the following:

A full revalidation of SCOOT UTC system that operates in Newbridge and all junctions/ pelican crossing operations reviewed in order to minimise the impact of the development on existing detectors, SCOOT validation and commissioning.

This shall include but not limited to:

- a) A desktop review of the SCOOT data base and setting/ configuration,*
- b) A review of the operation of the junction identifying and issues/ possible improvements physical or otherwise,*
- c) Implementing any works identified as parts of Items A and B above,*
- d) A full revalidation of SCOOT junctions in Newbridge including: T134 Moorfield Road/ NIRR T138/ T139 NIRR – Whitewater/ Newbridge Industrial estate, T139 NIRR/ Athgarvan Road, T140/T141 NIRR/ Cutlery Road, NIRR/ Kilcullen Rd, T131 NIRR/ Liffey Bridge, T133 Cutlery Road/ Main Street, T 132 Main Street/ Charlotte St.*

7.4. In response to the clarification of further information the planning authority had indicated the SCOOT UTC system in operation in Newbridge needed to be revalidated and its junctions operations reviewed in order to minimise the impact. The response to Traffic Impact Issues prepared by ARUP submitted to the planning authority on 20th of December 2017, suggests the correct review procedures and states '*The applicant invites a condition requiring review and upgrade of SCOOT region as per the tasks outlined above to be carried out upon opening of the development when the traffic impact is fully understood*'. I note it was the applicant The Traffic Impact Assessment prepared by ARUP for the proposal shows that only a modest increase in traffic will occur across the network and that all junctions will operate well within capacity in the opening year. Having regard to the existing congestion within Newbridge town centre, the fact the applicant has suggested this review during the planning application assessment process, and that the condition

has been attached to similar development proposals in Newbridge (Dunnes site), I consider the condition to be reasonable and should be upheld by the Board

7.5. Condition No. 16.

Prior to commencement of development the developer shall submit for the written agreement of the Planning Authority a proposal for the upgrade of existing CCTV locations in the vicinity of the development.

- a) *The upgrade of the following CCTV locations: T134 Moorfield Road/ NIRR, T138 NIRR/ Newbridge Industrial Estate, T139 NIRR/ Athgarvan Road, T140 and T141 NIRR/ Cutlery Road – NIRR/ Kilcullen Road, T131 NIRR/ Liffey Bridge, T132 Main Street/ Charlotte St, T133 Cutlery Road/ Main St.*

The provision of 180 degree multi sensor CCTV Camera and a PTZ CCTV Camera in locations listed above and in accordance with the requirements of Kildare Co. Co. Traffic Management Centre.

- 7.6. In the further information submission made on the 20th of December 2017 which included a report by ARUP, it stated that Kildare Co. Co.'s Traffic Management Section stated there are a number of CCTV cameras in the vicinity of the proposed development which should be upgraded to current specification to enable KCC to monitor traffic flow and implement changes to minimise impact of the development on the network. *'The applicant invites a condition to review and upgrade camera equipment upon opening of the proposed development as per tasks outlines above'*. Therefore the upgrading of the CCTV was suggested by the applicant in the first instance during the planning application assessment process. The Roads Section report of 22nd of January 2018 recommends the wording of Condition No. 16. The applicant had asked for the condition to be removed as the upgrade of the CCTV is not a specific necessity of the applicant's proposal and the upgrade would benefit the entire town of Newbridge and it is not exclusive to the current proposal. Having regard to the scale of the development it would appear to me to be an excessive and ultra vires requirement for the applicant to provide a 180degree multi sensor CCTV camera and PTZ CCTV Camera at T134 Moorfield, T138 Newbridge Industrial Estate, T 139 Athgarvan Road, T140 and T141 Cutlery Road and Kilcullen Road, T131 Liffey Bridge, T132Main Street/ Charlotte Street and T133 Cutlery Road/ Main Street. In my opinion, this issue of upgrading CCTV cameras as prescribed in the

condition, is the responsibility of the local authority. In my opinion, the condition is unreasonable and should be removed from the decision.

8.0 Recommendation

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted and based on the reasons and considerations set out below, directs the Council, under sub-section (1) of Section 139 of the Planning and Development Act, 2000 to UPHOLD Condition No. 15 and to REMOVE Condition Nos. 11 & 16 and the reasons therefore as follows:

Condition No. 11 be removed. The Board noted that the condition referred to matters outside the site of the proposed development and did not consider the inclusion of the condition enforceable.

Condition No. 15 be upheld

Condition No. 16 be removed. The Board noted that the condition referred to matters outside the site of the proposed development and did not consider the inclusion of the condition enforceable.

Caryn Coogan
Planning Inspector

19th of June 2018