



An
Bord
Pleanála

Inspector's Report ABP-302375-18

Development

The proposed development is to consist of demolition of existing single and two storey warehouse buildings within the western portion of the site and construction of 6 no. storey mixed use building and all associated and ancillary site works

Location

Balmoral Estate, Kells Road, Navan, Co. Meath

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

NA171476

Applicant(s)

Foxtrot Investment 2011 Limited

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Sean Lynch
David Goonan & Bernard Weldon

Observer(s)

None

Date

16th of November 2018

Inspector

Angela Brereton

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	7
3.3. Other Technical Reports	10
3.4. Prescribed Bodies	11
3.5. Third Party Observations	11
4.0 Planning History.....	11
5.0 Policy Context.....	12
5.1. Meath County Development Plan 2013 -2019.....	12
5.2. Navan Development Plan 2009-2015 (as varied).....	13
5.3. The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009.....	14
5.4. Natural Heritage Designations	14
6.0 The Appeal	14
6.1. Grounds of Appeal	14
6.2. Applicant Response	16
6.3. Planning Authority Response	17
7.0 Assessment.....	18
7.1. Principle of Development and Planning Policy	18
7.2. Design and Layout	19
7.3. Signage.....	21
7.4. Retail Impact	21

7.5. Roads issues.....	23
7.6. Condition no.4 of PL32.225473.....	26
7.7. Permeability issues	27
7.8. Right of Way issues	29
7.9. Special Development Contributions	31
7.10. Drainage and Flood Risk	32
7.11. Appropriate Assessment.....	33
7.12. Conclusion relative to NIS.....	36
7.13. Screening for Environmental Impact Assessment.....	36
8.0 Recommendation.....	36
9.0 Reasons and Considerations.....	37
10.0 Conditions	37

1.0 Site Location and Description

- 1.1. The site is located within Balmoral Industrial Estate and is on the northern side of the Kells Road (N51 now the R147) and on the opposite side of the road from Navan town centre. The Balmoral Industrial Estate is characterised by low rise units and is at a lower level than the public road. It includes a mixture of single/two storey industrial/commercial/warehouse type buildings. The subject site is located to the south east in the existing industrial estate and is currently occupied by low rise units. There are car showrooms to the west of the site. Most of the buildings appear occupied and there is an extensive parking area including that occupied by cars 'for sale' to the west.
- 1.2. The Estate is accessed via a traffic light controlled junction and roundabout from the busy N51/R147. There is an internal access road that serves the various units within the estate. There is also a gated access at the site frontage to the Kells Road which was closed on the day of the site visit and does not appear to be generally open for vehicular use. Internal signage on the gate states: 'Please Use Other Exit'. The sign visible from the roadside states: 'Main Entrance 100 Metres Left at Junction', referring to the aforementioned signalised junction. There is a pedestrian entrance as this gate was open on the day of my site visit.
- 1.3. There is a footpath and boundary fencing along the road frontage and to the roundabout, but not within the estate. The entire industrial estate is bounded by a 2m high fence to the south (Kells Road) and by palisade fencing to the north, east and western boundaries.
- 1.4. The River Blackwater runs along the northern boundary of the estate. This can be seen from the green area to the east of the roundabout. There are currently no linkages from the Balmoral Industrial Estate to the riverside area. There are houses on the opposite side of the road which are some distance from the site.

2.0 Proposed Development

- 2.1. Foxtrot 2011 Ltd, have applied for permission for a mixed use development with a g.f.s of c.7,242sq.m at a 0.77ha site (approx.) at Balmoral Estate, Kells Road, Navan, Co. Meath. The proposed development is to consist of the following:

- Demolition of existing single and two storey warehouse buildings within the western portion of the site;
- Construction of a 6no. storey mixed use building over basement (with rooftop plant at fifth floor level), to include setbacks and accessible terraces (eastern elevation) at first and fifth floor levels;
- Provision of a discount food store (to include off licence use) with a g.f.a of c.1,695sq.m (net retail area 1,140sq.m) at ground floor level to include all ancillary areas;
- Provision of a 135sq.m retail unit at first floor level (south) and c. 5,412sq.m office/medical floor space from first to fifth floors;
- Provision of external plant enclosures (western elevation) at ground floor level;
- Landscaped surface car park (90 no. car parking spaces) to serve the proposed discount food store (including 1 set down space);
- 70no. bicycle parking spaces, good delivery/reception area; provision of a basement car park to serve the medical/office uses (including plant room/ancillary areas and 120no. car parking spaces);
- Reconfiguration of internal road and provision of ramp to basement of proposed development;
- Upgrades to the existing footpath along Kells Road and provision of a landscape plaza area at the junction of the Kells Road and the existing access road to Balmoral Industrial Estate;
- Provision of 7sq.m of illuminated signage located on the northern and eastern elevation including a totem sign located at the main entrance of the site; all associated and ancillary site development and landscaping works.

2.2. John Spain & Associates have submitted a number of documents supporting the application and these include the following:

- Planning Supporting Statement;
- Retail Impact Statement;

- Architectural Drawing and Schedules;
- Architectural Design Statement including CGI's;
- Engineering Drawings, Schedule and Report;
- Flood Risk Assessment;
- Outline Construction Management Plan;
- Construction and Demolition Waste Management Plan;
- Traffic and Transportation Impact Assessment;
- Appropriate Assessment;
- Energy and Sustainability Statement.

3.0 **Planning Authority Decision**

3.1. **Decision**

On the 27th of July 2018, Meath County Council granted permission for the proposed development subject to 31no. conditions. Many of these refer to infrastructural and construction issues, development contributions and the following are noted:

- Condition no.2 – restricts the usage of the building to that outlined in the planning application.
- Condition no.3 – External finishes
- Condition no.4 – turning movements to accommodate the right of way.
- Condition no.5 - Road Safety Audit (Stage 1-4)
- Condition no.6 – Cycleway and footpaths
- Condition nos.16 -18 – Signage.
- Condition no. 22 – Hours of Operation
- Condition no.31 – Special Development Contribution

3.2. Planning Authority Reports

3.2.1. Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made and the comments of the interdepartmental sections. Their Report includes regard to the following:

- A Masterplan for the development of Balmoral Industrial Estate through six phases was agreed with Meath County Council in October 2017.
- The site is currently zoned C1 to provide mixed use development and the development is acceptable in principle in this zoning.
- The proposed design is compatible with that of a Gateway Building.
- The proposed development is in compliance with the Navan 2030 proposals which seek to enhance the physical attractiveness of the town while improving movement and access in and out of the town centre.
- They note that an Aldi store is proposed for the ground floor level and have regard to the Retail Impact Assessment submitted. This concludes that there is a shortage of this type of retail provision in Navan and will reinforce its role as a primary shopping destination.
- They consider the off-licence element is acceptable as ancillary to the proposed development.
- The design and layout is considered to be acceptable and will not impact on protected views.
- The proposed development is accessible and will increase the attractiveness of the town centre.
- They have regard to the Transportation Section's and the NTA's comments and provide that F.I will be requested relative to these issues.
- They note that it is proposed to connect to existing water services and the comments of the Engineering Section and Irish Water.
- They have regard to the previous permission on this site and note that an AA Screening Report and NIS was then prepared. Also, to the reports submitted

with the current application and conclude that the proposal will not adversely impact on the Natura 2000 sites.

- The proposal accords with the RPG and that the PA is satisfied that there is capacity for a development of this nature.

Further information Request

The Council requested F.I to include the following:

- To clarify the status of the existing 'right of way' onto the Kells Road.
- To provide details of pedestrian and cycling access through the site from the existing access to the south west corner to the remainder of the estate.
- To demonstrate compliance with car parking standards.
- Details of boundary treatment along the Kells Road at the location of the first floor unit. Also, of pedestrian/cyclist access and permeability.
- Details of the ramp to the basement.
- To clarify details of the access road relative to the 'right of way'.
- Details of secure bicycle parking and shower and locker facilities.
- Details as to the number of employees proposed relative to the MCDP stipulations regarding a mobility management plan.
- To omit the 12m high advertising sign as this is excessive.
- To address the concerns raised in the submissions.

First Party Response

- This has regard to Condition no.4 of Ref. PL32.225473 which requires the existing entrance onto the Kells Road to be closed within one month of the opening of the signalised junction. They note that the existing entrance is generally locked and provide details of this relative to the right of way issue. They note that a Report has been prepared by Trafficwise Ltd to provide further clarification on this issue and is included within Appendix 5 of the F.I response.

- The applicant's architects have prepared a drawing which shows future pedestrian and cycling access through the site.
- Detailed drawings have been submitted showing the boundary and access arrangements along the Kells Road at the location of the first floor units.
- A drawing has been submitted showing details of the transition from the footpath and cycle lane on the boundary along the Kells Road and the first floor retail units.
- Detailed drawings have been submitted of the proposed basement ramp to basement which details the slopes, levels and widths.
- The proposed basement ramp has a maximum gradient of 1:10.
- They confirm that the right of way is to be retained and details have been submitted of the delineation of the junction
- The layout of car and bicycle parking has been shown.
- A Mobility Management Plan has been prepared by Trafficwise Transport Consultants and is included within Appendix 4.
- It is proposed to reduce the height of the advertising sign.
- A response is given to the submissions made.

Planner's Response

They had regard to the F.I submitted including revised plans and particulars, the Submissions made and Transportation recommendations and their response includes the following:

- The proposed development represents a logical development on a presently underutilised site and further on lands which have been identified as suitable for Mixed Use purposes.
- The applicant has demonstrated that the proposal accords with the Retail Planning Guidelines and they are satisfied that the capacity existing for a development of this nature.
- They concluded that having regard to the suitability of the site from a technical perspective, together with the nature and scale of the development they

consider that subject to compliance with conditions that the proposed development would not seriously injure the amenities of the area nor lead to devaluation of property; would not lead to creation of a traffic hazard nor traffic inconvenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

3.3. Other Technical Reports

Transportation Office

They had regard to the planning history of the signalised junction onto the Kells Road, noting that the previous entrance onto the Kells Road was decommissioned but is still operating to a minor extent. They noted a conflicting movement for traffic at the junction of the proposed ramp to the basement carparking area and had regard to underground parking. They requested F.I. on a number of issues, relative to access and parking.

In response to the F.I. they noted that the preferred solution is for this entrance to be closed. They made recommendations relative to issues concerning the right of way. They also had regard to issues concerning Road Safety Audits, footpaths and cycleways, boundary treatment and access arrangements. They had no objections to the proposed development subject to conditions including a special development contribution. They also recommended that the applicant be conditioned to agree boundary treatment along the Kells Road.

It was also recommended that Public Lighting be upgraded along the entire road frontage of the site.

Water Services

They considered the proposed attenuation system unacceptable and recommend that a revised system be submitted. They also recommended a number of conditions. They include regard to Irish Water comments and recommendations relative to drainage issues and wastewater disposal.

Chief Fire Officer

They have advised that a Fire Safety Certificate is required under Part III of the Building Control Regulations.

Corporate Services – Assets & Facilities Management

They provide that the Council gives its consent for the submission of the application, as property owner and not the Planning Authority.

3.4. **Prescribed Bodies**

National Transport Authority

They have no issue with the principle of development but include comments and recommendations. This includes that consideration should be given to the provision of a bus lay-by on the Kells Road within the Masterplan lands. Also, that increased permeability and secure bicycle parking should be provided. They advised that the proposed cycle track should be developed in accordance with the Cycle Manual and a Mobility Management Plan should be submitted.

Irish Water

They had no objections subject to conditions.

3.5. **Third Party Observations**

- 3.5.1. Regard is had to the Submissions made, as these raise similar issues and are from the subsequent appellants, they are considered further below in the context of the Third Party Grounds of Appeal.

4.0 **Planning History**

Subject site:

- NT/70020 – Permission was granted by the Council and subsequently subject to conditions by the Board for the demolition of the existing buildings and the construction of a mixed use development (15,225sq.m of accommodation) set out over five storeys plus penthouse level (six storeys in total) and all ancillary works. Retail units were to be included at lower/ground floor levels with office accommodation at first, second and third floor levels and 13no. apartments at fourth floor level. The application also included modifications to the existing Kells Road/N3 Inner Relief Road junction and new roundabout to be

constructed on behalf of Meath County Council. 381no car parking spaces and 52no. bicycle spaces all at Balmoral, Kells Road, Navan.

This was subject to appeal and was subsequently granted subject to conditions by the Board Ref. PL32.225473 relates. It is noted that while an extension of duration was granted this permission has now expired. A copy of this decision is included in the History Appendix of this Report.

Concurrent application on adjoining site:

- NA/180163 – Permission granted subject to conditions by the Council for the upgrading, reconfiguration and change of use of existing car showroom and retail units to provide for 2no. car showrooms, workshop, parts store and ancillary staff facilities and public toilet, signage, carparking and all ancillary works on approx. 0.70ha site. Significant further information was submitted.

It is noted that this application is currently the subject of a Third Party Appeal to the Board Ref. ABP- 302377-18 relates.

It is also of note that Appendix 1 of the Planning Report submitted with the application provides details of the Relevant Planning History at Balmoral Industrial Estate.

5.0 Policy Context

5.1. Meath County Development Plan 2013 -2019

Section 2.3.3 notes: *The former Town Development Plans for Navan, Trim and Kells are to be read as part of the County Development Plan pursuant to Section 11(c) of the Planning and Development Act 2000 as amended.*

Section 2.9.4 refers to the Land Use Zoning Objectives applicable to all statutory land use plans in the County and for the zoning objectives for the urban centres to be contained within the CDP. The site is zoned 'C1 Mixed Use' where the objective is: *To provide for and facilitate mixed residential and business uses.*

Section 3.4.2 describes Navan as a Large Growth Town 1 where the policy of the Development Plan is to promote economically active towns supporting the

surrounding area and maximising their location on multi modal corridors. They also seek to support critical mass.

Objective SS OBJ 8 seeks: *To develop Navan and the Drogheda Environs as the primary development centres in Meath and to ensure that the settlements grow in a manner that is balanced, self-sufficient and supports a compact urban form and the integration of land use and transport.*

Section 4.1.1 seeks to develop Navan Core Economic Area and development objectives include: *The significant intensification of employment opportunities in Navan to serve the large resident population is a strategic objective of the Development Plan.*

5.2. Navan Development Plan 2009-2015 (as varied)

Note: The Navan Development Plan 2009-2015 incorporating Variation 1 relative to the Core Strategy is still enforce as per Section 11C of the Planning and Development Act 2000 (as amended).

The appeal site is governed by the policies and provisions contained in the Navan Development Plan, 2009-2015. The site is zoned 'C1' with the objective to: *"provide for and facilitate mixed residential and business uses"*. On 'C1' zoned land there is a requirement for proposed developments to include at least 30% of a given site area for commercial, non-retail, development.

Section 3.2 of the Development Plan indicates that the Action Area Plan 2 was approved in early 2008. Under Variation No. 1 of the Development Plan the subject site which formed part of Action Area Plan 2 was re-named to Masterplan 2 and are noted as being land zoned predominantly for mixed use commercial activity. It indicates that applications for development on these lands shall be required to be in accordance with the existing plans unless alternative proposals are provided to the satisfaction of the Planning Authority as part of a planning application. The Area Action Plan sets out a broad framework for development on these lands.

Section 3.10 refers to the Treatment of Gateway/Landmark Sites.

Objective GSOBJ 1 seeks: *To ensure the high quality design and architectural treatment of key landmark sites as identified on the Development Objectives Map.*

5.3. The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009

These guidelines set out the methodologies for flood risk identification, assessment and management in relation to development proposals. In this regard they advocate the carrying out of a plan led justification test where it is intended by the Planning Authority to designate land for development which is at a moderate to high risk of future flooding.

5.4. Natural Heritage Designations

The River Boyne and River Blackwater SPA and SAC (site codes 004232 and 002299) is located 90m to the north of the site. This designation includes the river itself and a small piece of land to the south of the river, and to the east of the application site. The application site is not within the SAC.

6.0 The Appeal

6.1. Grounds of Appeal

Two separate Third Party Appeals have been submitted. These are from:

- Sean Lynch
- David Goonan & Bernard Weldon

Their grounds of appeal are summarised below:

Sean Walsh

- He contends that Condition no. 4 of PL32.225473 has not been complied with to date. He refers to documentation attached which includes correspondence between Meath Co.Co. and Meath Co. Solicitors and considers this information contradictory.

- Enforcement proceedings were issued for non-compliance with Condition no.4 of PL32.225473 and yet there is clear evidence in the form of photos proving that the relevant entrance did not cease to be operation.
- He queries why UD14231 file was closed if the existing entrance was and still is operational.
- He attaches images of recent usage over the last no. of years as evidence that this is still the case and will continue to do so against this condition.
- He submits that Phase no.1 of the proposed development as applied for in 2007 has not been complied with and it states that phase 2 cannot be started until this phase has been completed.
- He is the current owner of a commercial property within Balmoral Estate. He has a formal unfettered 'right of way' from his premises to the main road and through the original entrance which is the subject of condition no. 4 of PL32.225473.
- He has been trying to protect the rights to and of his property since the beginning of the planning process and refers to his constitutional rights and provides that he is not prepared to surrender his ownership.
- In the current application the Council issued a further information request which related to his 'right of way' through the original entrance. He has no correspondence with the applicants in relation to this FI request. Therefore items 1,2,6 and 10 of same were not addressed. He asks the Board to refer to the Planners Report which he considers appears to simply gloss over his legal 'right of way' and condition no.4 of PL32.225473.
- He includes documentation in support of his appeal, including regard to details of enforcement history and legal proceedings relevant to non-compliance with condition no.4 of PL32.225473.

David Goonan & Bernard Weldon

- Their original right of way has been eroded by the new entrance from the inner relief road which will create safety and traffic concerns with the current application.

- The erosion of the right of way from one of their buildings was executed without full and proper consultation with them in order to facilitate the new entrance onto inner relief roads.
- The current scale of the proposed development appears incompatible to address the safety concerns raised in their submission to the Council.
- They consider that having regard to the erosion of right of ways and safety concerns they have no other option but to appeal the Council's decision to the Board. They include photographs to highlight their concerns.

6.2. Applicant Response

John Spain Associates has made a response to the Third Party grounds of appeal on behalf of the Applicant s, Foxtrot Investment 2011 Limited. Their response includes the following:

- The two appeals are focused on property rights issues and do not contain any substantive planning issues relating to the proposed development.

Right of Way

- They note the appellants concerns regarding retention of their right of way.
- A review of both planning appeals confirms that the principal issue relates to property rights rather than any substantive planning matters. As such in accordance with Section 138 (1)(b) of the Planning and Development Act 2000, they submit to the Board to dismiss both appeals on the basis that the nature of both appeals do not relate to any substantive planning issues.

Enforcement Issues – Non-compliance with previous planning permission

- The appeal by Mr Sean Lynch relates to a historic enforcement matter regarding an alleged non-compliance with Condition no.4 -PL32.225473 relative to a previous grant of planning permission on the subject lands. This file is now closed.
- Enforcement matters and interpretation of such conditions imposed in decisions are primarily the responsibility of the Council in this instance. This is not relevant to the proposed development which is the subject of this appeal.

- All issues relating to property matters including rights of way and historic enforcement matters were comprehensively dealt with at planning application stage and F.I stage. This was deemed acceptable by the Council and this is reflected in the notification to grant planning permission subject to conditions.
- From a legal perspective, a number of single unit owners to the rear of Balmoral Estate seek to maintain access to the existing entrance, although a newly constructed and fully compliant/signalised junction is now in place to serve the overall Estate, over which these owners have full use. The gate remains locked and is not accessible to the general public and is for the most part unused.

Conclusion

- They submit that the two appeals are focused on property rights issues and a historic enforcement issue which is not relevant to the proposed development which is the subject of this appeal.
- The two third party appeals do not relate to any substantive planning issues. These matters have been fully addressed by the applicant in their submission to Meath County Council on this planning application.
- They request the Board to dismiss the two appeals under Section 138 of the Planning and Development Act, 2000 (as amended).

6.3. Planning Authority Response

Meath County Council's response, notes the grounds of appeal include the following:

- Non compliance with Condition no. 4 of PL32.225473
- This condition has not been complied with as phase one, therefore phase 2 cannot commence.

They provide that the proposed development was considered by the PA to be consistent with the policies and objectives as outlined within the Meath CDP 2013-2019. They refer the Board to the Planner's Report dated 27th of July 2018. They request the Board to uphold the decision of the PA to grant permission with the conditions intact.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. The site is zoned 'C1 Mixed Use' with the Objective - Meath CDP 2013-2019 i.e: *To provide for and facilitate mixed residential and business uses*. It is noted that a Health Centre and Offices are permitted uses and a supermarket or shop is open for consideration in this land use zoning. It is provided that the mixed use commercial development has been designed to accord with the policies and objectives set out in the Navan Development Plan 2009-2015 (Variation 1) and the Action Area Plan (Masterplan 2 Lands). Also, that the development is consistent with the aims and objectives of national and regional planning policy as it will provide a mixed-use development of appropriate density, and will take advantage of the site's strategic location, in close proximity to Navan Town Centre. The First Party considers that the proposed development is entirely appropriate and consistent with the proper planning and sustainable development of the area.
- 7.1.2. The Design Statement notes that a Masterplan has been developed for the lands at Balmoral Industrial Estate in association with the Council which will be realised over 6no. phases of development. The subject application represents Phase 1 of these proposed development and has been designed in order to achieve the key objectives of the Masterplan. The Planning Report submitted with the application notes that this Masterplan which has been approved by the Council (October 2017) in the context of the Navan Action Area Plan No.2, the Navan Development Plan 2009-2015 (as varied) and the relevant national and regional planning policy context.
- 7.1.3. The existing Balmoral Industrial Estate, comprises of a number of primarily single storey warehouse-type buildings which accommodate a range of uses such as car showroom and various established commercial and business premises. The design strategy seeks to provide for the rejuvenation of the Balmoral Industrial Estate focuses on core principles in delivering a scheme to provide a gateway building and accommodate greater public accessibility, facilitate private and commercial growth, and provide vibrant and dynamic spaces to promote permeability and interactions and linkages.

- 7.1.4. There are no specific objectives which relate directly to the application site. It is noted that the southern part of the site adjacent to the Kells Road is identified as the location of a 'Gateway Site'. Objective 'GS OBJ 1' of the Development Plan seeks to ensure the high-quality design and architectural treatment of key landmark sites as identified in the Development Objectives Map'.
- 7.1.5. It is of note that the Grounds of Appeal primarily relate to access and right of way issues and reference is had to enforcement issues relative to Condition no.4 of NT70020/ABP Ref PL32.225473 and to Phasing of development within the Masterplan Lands. These issues are discussed in the context of this Assessment below. However, as it is not stated in the grounds of appeal that the Appellants are specifically appealing against any Condition of the Council's current permission relative to the site, it is in order that this application be considered *de novo*, having regard to the issues raised and the details and documentation submitted.

7.2. Design and Layout

- 7.2.1. The site occupies a prominent position on the Kells Road and is highly visible from both east and west directions. Planning permission is sought for the development of a six storey mixed use building incorporating health/office and retail uses and ancillary works. The Design Statement provides that this contemporary landmark building will facilitate multiple occupancies, and as such will be representative of the mixed-use development. The proposed development comprises of Phase 1 of the redevelopment of Balmoral Estate, Kells Road, Navan.
- 7.2.2. In summary it consists of the demolition of an existing single and double storey warehouse building (1,354sq.m) and the construction of a 6no. storey mixed use building over basement, provision of a discount food store (to include off-licence use) with a g.f.a of c.1,695 sq.m (net retail area 1,140 sq.m) at ground floor level, provision of a 135sq.m retail unit at first floor level (south) and 5,412 sq.m of office/medical floor space from first to fifth. The proposal provides for a total of 210 car parking spaces, 1no set down area and all associated and ancillary site development such as roof plant and landscaping works.

7.2.3. The Design Statement submitted provides a detailed description of the proposed development. Table 2 provides the key statistics relative to the usage of the floorspace of the proposed development and this includes the following:

- Basement level- car parking, plant/store/circulation - 3,847sq.m;
- Ground Floor level – Retail use and ancillary uses 1,695sq.m;
- First Floor level- Retail use (135sq.m), medical/office use – 697sq.m, ancillary areas to office 434sq.m i.e 1,266sq.m;
- Second, Third and Fourth Floor levels - Medical/Office use and ancillary uses – 1,200sq.m per floor;
- Fifth Floor level – Medical/Office use and ancillary areas – 681sq.m;

The total gross floor area of the proposed development is 7,242sq.m.

7.2.4. Details are given of the mix of contemporary materials and external finishes proposed. It is also noted that the site boundary along the Kells Road will be defined by steel cable wire guard rails. It is proposed to have softer boundary treatment at the main entrance to the north east of the estate.

7.2.5. The main office block 'spine' is to be 6 stories in height over basement supported by a side office block (5 stories) and retail areas (1.5 stories from basement to the Kells road level). The ground floor has the largest footprint with a five storey block (offices) to the front and another 6 storey block (spine) adjoined over the western section of the footprint. The maximum height is 24.4m. It is provided that these transitions in height will provide opportunities for the creation of amenity spaces with terraces on the first and fifth floors, and also will help mediate between the scale of the proposed development of phase 1 with the future phases of the masterplan which will be less tall. The basement is to be used for car parking. The development also provides a surface car park with 90 spaces to the east of the building with the basement to provide 120 spaces.

7.2.6. Regard is had to the Contiguous Elevations submitted, which show the contrast of the proposed building relative to the single/two storey units on site. Details are given of the external finishes proposed. It is considered that Balmoral Industrial Estate is currently under-utilised and that there is capacity for a mixed-use building of this scale on this site. The applicants provide that the proposed ground floor convenience

retail will sustain a level of competitiveness of Navan town centre. The proposed first floor office space/medical use will make a positive contribution to the C1(Mixed Use) Zone and incorporates high quality landscaping along all roads. It is considered, that having regard to the details submitted and taking account of the Perspective Views submitted, that the design and layout of the proposed development will provided quality materials and external finishes are used, provide a focal point and not detract from the character and amenities of the area.

7.3. Signage

- 7.3.1. The proposed development incorporates three elements of signage (with a total of 49sq.m). The totem signage proposed to the south east of the site is to have a powder coated aluminium frame with double sided internally illuminated displays. The totem sign has an area of 42sq.m. As part of the F.I request the applicant was requested to omit the 12m high advertising sign proposed and this was considered excessive. In response the applicant proposes to reduce the sign to 6.4m and considers that signage is important at this location given the proposed transition from an established industrial zone to a mixed retail/commercial activity. Details of the revised signage area given. The Council considered this reduction in height to be acceptable. Condition nos. 17 and 18 of the Council's permission relate to signage and restrict it to one double sided double post sign.
- 7.3.2. The proposed building signage zones total approx. 7sq.m and are to be illuminated on the northern and southern elevations. It is recommended that if the Board decide to grant that it be agreed that details of colours/design of the signage be submitted. Also, that there be restrictions on signage as per the Council's permission.

7.4. Retail Impact

- 7.4.1. Navan is designated a Level 2 Major Town Centre and County Town Centre within the Retail Hierarchy in the Regional Planning Strategy for the GDA 2008 -2016 (GDA Strategy). Regard is had to Retail Strategy including the Meath County Retail Strategy 2013-2019 included in Appendix 5 of the Meath CDP. Also, to the Navan Development Plan 2009-2015 (Variation 2 – Adopted July 2017). Supermarket/Shop use is open to consideration in the 'C1 – Mixed use zoning'. The subject site forms

part of a larger site extending to the east which forms part of an area designated 'Masterplan 2'.

- 7.4.2. The application proposes an Aldi store at the ground floor of the proposed development. The retail element of the proposal comprises discount food store to include off-licence with a g.f.a of 1,695sq.m (net retail area of 1,140sq.m) and ancillary works at ground floor level provision of a 135sq.m retail unit at first floor level (south).
- 7.4.3. A Retail Impact Assessment has been submitted by John Spain Associates. This includes regard to the Sequential Test in Appendix 1. A description is given of Aldi stores relative to convenience needs. This includes that the opening hours of existing stores are from 8am to 10pm Monday to Saturday and 10am to 10pm on Sundays. It is provided that, Aldi has identified a strong demand for second store in Navan and the subject site is suitable.
- 7.4.4. Regard is had to the Retail Planning Guidelines 2012 and to the Sequential Test Assessment. The application site is located to the west of the core retail area and would be classified as an 'edge of centre' site within the context of the RPG and sequential test approach. It is noted that Navan as a historic town has a compact retail core. The town centre includes numerous individual properties on small plots in multiple ownership. The RIA provides that the acquisition of a property substantial enough to accommodate the proposed development would be extremely difficult. They provide a discussion of alternative sites and note that no sites were identified within the core retail area which are suitable, available and viable to accommodate the proposed development. The proposed development is therefore in accordance with the sequential test. Regard is had to Qualitative Assessment and a health check assessment has been carried out. This notes the viability of retail in Navan town centre. It is also noted that the town offers two retail parks, i.e. Navan Retail Park on the Athboy Road and Blackwater Retail Park on the Trim Road. The discount foodstores include a Lidl on Trim Road and an Aldi on Brew's Hill.
- 7.4.5. The site is located 360m to the west of the traditional retail core of the town centre and is therefore located within walking distance of the retail core. This would comply with Section 4.7 of the RPG 2012 relative to 'Edge of Centre Retailing'. While it is necessary to cross the N51/R147 which is a major road, there are footpaths and a

pedestrian crossing at the signalised junction, which add to the accessibility of the site. It is also proposed to provide surface carparking and cycle parking on the site and a Mobility Management Plan is included.

- 7.4.6. They provide that the proposed development is in compliance with the Retail Design Manual which sets out the key principles of urban design under a number of headings (e.g. design, context and character, access and connectivity, density and mixed use, etc). Reference is made to the Architectural Design Statement submitted which sets out compliance with the criteria, in the Retail Design Manual.
- 7.4.7. A Quantitative Assessment is provided to assess the capacity for additional convenience provision in Navan and its environs. This includes regard to the Catchment Area Population and to convenience goods expenditure. This provides that Aldi have the capacity to operate two stores from the town. Also, the proposed development will enhance the competitiveness and diversity of convenience retail in the town. They provide that the close proximity, of the proposed site to the permitted retail warehousing development on the adjoining lands will enhance the possibility of linked trips being made and create a commercial synergy. The RIA concludes that the proposed development of this site offers an excellent opportunity to provide a supermarket development, in accordance with the zoning objective and in a strategic location with excellent connectivity to the town centre.

7.5. Roads issues

- 7.5.1. Section 11.1.8 'Traffic and Transport Assessments' of the Meath CDP 2013-2019 sets out that applications for developments that are likely to have a significant effect upon travel demand should be accompanied by a TTA. A Traffic Assessment has been submitted with the application. The purpose of the TTA is to describe the existing and likely future traffic flows. It discusses the results of traffic flow and junction capacity assessment undertaken to identify the likely potential level of traffic impact arising from the proposed development of Phase 1 Balmoral, Navan. The TTA also includes assessment of the site infrastructure to accommodate the traffic generated to the Masterplan lands encompassed with Balmoral and MP2 in total.
- 7.5.2. The scope of the TTA includes transport issues relating to the existing site access at the traffic signal junction. Recommendations and proposals provided in the

assessment are based upon the existing and likely future road layout and traffic characteristics together with on-site observations and measurements, traffic turning count data and industry standard traffic data analysis.

- 7.5.3. The Board previously granted permission on condition that the project be completed in two separate phases where Phase 1 encompassed the completion of the roads infrastructure including the internal roundabout – Condition no.2 refers. It is provided that the Cannon Row signalised crossroad has been constructed as per the proposals of (Reg.Ref.NA/70020 - PL32.225473 refers) the previous permission and includes for dedicated right turn lanes on both the N51 approaches together with dedicated ahead and ahead/left turns.
- 7.5.4. The access arm to Balmoral Industrial Estate includes for dedicated left turn and right/ahead lanes. The site has direct vehicular access from the N51 Slane Road at the traffic signal crossroad with R895 Cannon Row. This road leads from the signals to an internal roundabout designed to provide access to the industrial estate and lands to the west. The traffic signal junction provides for pedestrian crossings and also provides internal access to the Industrial Estate. The TTA notes that the signal junction is the sole vehicular access to the MP2 lands. Also, that the Phase 1 works have now been completed to the satisfaction of the PA.
- 7.5.5. Details are given of the proposed 6no. Phases of Development in Section 5.2 of the TTA. It is noted that the current application is referred to as Phase 1. This is intended to incorporate a Retail unit with Office/Medical use over and car parking at basement level. It is provided that, subject to planning that this phase would commence during 2018 and be occupied during 2019-2020.
- 7.5.6. To estimate likely future traffic generation to the proposed development and the potential developments included in the Masterplan reference has been made to TRICS database traffic generation figures relative to the proposed discount food store (based on 1,395sq.m floorspace) and note that they have reviewed similar stores such as the one in Trim. Also, relative to the proposed Medical/Office development (5,412sq.m) and the proposed retail (135sq.m). This is considered in the TTA along with the proposed Car Sales Showroom (ABP-300377-18 relates). For the purposes of the assessment it is provided that all traffic to the proposed

medical/office development is assumed to be totally new to the receiving road network. Phases relative to separate uses 4 and 5 are also considered.

- 7.5.7. In line with the guidance provided in Transport Assessment Guidelines, modelling analyses of the capacity of the receiving road network was carried out for, the Surveyed Traffic Flows (basis of comparison), Opening Year (Assumed 2018), Opening Year +5 (2023) and Opening Year +15 (2033). Table 5.12 of the TTA provides a summary of the AM and PM peak hour traffic generation to each of the component elements of the proposed development spanning the above time periods and development phasing.
- 7.5.8. Regard is had to existing and assumed future traffic generation on the MP2 lands. The scope of future year assessments focuses on the operation of the proposed MP2 at N51/R895 Cannon Row Traffic Signal Junction. Under the Phase 1 scenarios the forecast development traffic is added to the existing surveyed traffic at Balmoral Industrial Estate, in subsequent analyses of the complete development the existing Balmoral Industrial Estate has been discounted.
- 7.5.9. The analyses include a scenario where no development whatsoever occurs on the MP2 lands, a scenario which includes the construction and occupation of the entire Masterplan development of Balmoral Industrial Estate and a further scenario which includes for not only the Masterplan development but the development of all lands included in the MP2. The computer modelling program OSCADY has been used to assess the existing and future performance of this junction. The results of the analysis show that the junction will perform within capacity without significant queues or delays. The analyses confirm that the impact of the proposed Phase 1 development traffic in the morning and evening peak periods is not likely to be significant. The results of the analysis show that with the entire MP2 lands fully developed and occupied the junction will perform within capacity without significant queues or delays in the years 2023 and 2033.
- 7.5.10. A comparison is provided with the previous Assessment in PL32.225473, having in particular regard to condition nos. 1- 4 which relate principally to the road infrastructure serving the site. They note that Phase 1 of the development has been completed to the satisfaction of the PA and the signalised crossroad and roundabout now serve as the singular access to the Balmoral Industrial Estate.

7.5.11. The TTA also includes a Collision Assessment which includes a review of RSA Collision Data. The data shows no collisions recorded near the existing traffic signal junction. Regard is also had to Construction Related Traffic. The Board should they decide to permit, is invited to include a condition with regard to the preparation of the detailed Construction Management Plan.

7.6. Condition no.4 of PL32.225473

- 7.6.1. The Board's permission PL32.225473 was granted an extension of duration to the 28th of May 2016 which has now expired. The Third Party is concerned that Condition no.4 of this permission has not as has been asserted in the TTA been complied with. They note that Phase 2 was not to be permitted to commence until each element of Phase 1 was completed. It is noted that Condition no.2 (construction of the roads infrastructure) provides that Phase 2 shall not commence until each element of Phase 1 has been completed and certified by the PA.
- 7.6.2. Section 2.4 of the TTA has regard to the previous permission. The proposed development then included modifications to the junction of the existing Kells Road and the N3 Inner Relief Road (then the N51). Subsequently the Kells Road (formally the N51) was downgraded on the opening of the M3 motorway which by-passes Navan. It was noted that then these modifications included for the creation of a new access then signalised T-junction at Cannon Row thereby creating a signalised crossroad junction and the construction of a new roundabout within the development site.
- 7.6.3. They note that Condition no.4 confirmed that the installation and construction of the signals and roundabout were to be planning authority requirements and that the then existing ghost island direct access to the Balmoral Industrial Estate from the Kells Road (west of Cannon Row) would be closed. Phase 2 was to consist of the remainder of the development but was not permitted to commence until each element of Phase 1 was completed and certified in writing by the planning authority.
- 7.6.4. Phase 1 of the proposed mixed use development included the works to the signalised crossroad and the construction of the internal distributor roundabout which now provides access to the Balmoral Industrial Estate and the MP2 lands. It is provided that, Phase 1 of the development has been completed to the satisfaction of

the PA and the signalised crossroad and roundabout now serve as the singular access to the Balmoral Industrial Estate. Phase 2 of the development has not been implemented. The reason for this is understood to be mainly economic which corresponds to the timing of the grant of permission in May 2008. The N51/R147 is provided with pedestrian footways on both sides and has a posted speed limit of 50kph in the vicinity of the Cannon Row signal junction. The mainline carriageway is provided with a solid centreline which precludes overtaking in the urban environment.

7.6.5. The Council's Transportation Section comments that the proposed development is accessed via a signalised junction on the Kells Road which was upgraded for the applicant some years ago. The existing/previous access point onto the Kells road at the western side of the proposed development was to be decommissioned on completion of the new junction but is still in operation, though to a minor extent. They provide that the continued use of this entrance, in particular right and left turning movements from the R147, could impede traffic flows and result in traffic hazard. The proximity of the bus stop could also increase the risk of vehicular collisions at this location. Their preferred solution is for this entrance to be closed.

7.6.6. Their response to the F.I includes regard to this issue and they recommend that a Road Safety Audit (Stages 1 - 4) for the entire development be carried out, with the amended drawings and road layout submitted for the agreement of the Council. Also, a footpath and cycleway are proposed on the Kells road fronting this site as part of the R147 Sustainable Transport Corridor and this must be reflected in the overall design of the development. It is of note that the Appellant refers to Enforcement issues relative to condition no.4. However, Enforcement is not within the remit of the Board, and is more appropriately dealt with by the Enforcement Section in the Council.

7.7. **Permeability issues**

7.7.1. A footpath and cycleway are proposed along the Kells Road fronting this site as part of the R147 Sustainable Transport Corridor and as put forward by the Council's Transportation Section, this is to be reflected in the overall design of this development. The applicant's response to the Council's F.I request provides that

their architects have prepared a drawing which shows future pedestrian and cycling access through the site and their revised Site Layout Plan relates.

- 7.7.2. Reference has been made to Table 11.9 of the Meath CDP which outlines the car parking standards for different development types. As the subject site is located proximate to Navan Town Centre it is well serviced by public transport and this will be improved by the provision of the bus stop. It is also expected that there will be dual usage involved which will further reduce the demand for car parking. The revised Site Layout Plan shows 90 surface carparking spaces to the east of the building, 120 spaces are to be provided at basement level. Details of the proposed basement access ramp are provided. This notes that the existing one-way access road is to be retained and reconfigured. This is shown relative to the Proposed First Floor Plans. Details are also included of secure bicycle parking. It is provided that the proposed access road is common to planning applications for Phases 1 & 2 (currently in concurrent planning application NA171476 & NA180163).
- 7.7.3. It is proposed to locate 62no. secure bicycle parking spaces adjacent to the office entrance at the north-west corner of the building and 8no. secure bicycle parking spaces adjacent to the entrance to the discount foodstore, to be covered and adequately lit. Shower and locker facilities are to be provided for employees at each level of the building.
- 7.7.4. It is noted that agreement with the NTA is recommended relative to the design of the Kells Road/Canon Row junction in order to facilitate and accommodate the improved circulation routes within the town and improved bus services. They provide that consideration should be given to the provision of a bus lay-by on the Kells Road within the Masterplan lands to take advantage of the enhanced bus services and infrastructure that will be provided in accordance with the Navan 2030 Plan and the recent Part 8 development (P8/17004 refers) to serve the redevelopment of these brownfield lands which are proposed to become a significant trip attractor. In accordance with the *Permeability Best Practice Guide (NTA)* providing filtered permeability within and to a site is the key to promoting sustainable transport. They recommend in the interests of permeability and increased pedestrian access that the south-north access through the site for pedestrians and cyclists is provided at the south west corner of the site. On the day of my site visit I noted that while the

existing vehicular gate to the R147 Kells Road was locked (signage reinforces this) the pedestrian gate was open which serves to increase permeability to the site.

- 7.7.5. A Mobility Management Plan has been prepared by Traffic Wise Transport Consultants and is included within Appendix 4 of the F.I response. This has regard to the development of these lands as a vibrant quarter on the edge of Navan Town Centre with strong linkages to the town to promote permeability in accordance with the Masterplan MP2. They have regard to accessibility for pedestrians, cycleways and public transport. This notes that a dedicated pedestrian access is proposed from the N51 Kells Road through high quality linkages. There are also dedicated footway links from the main entrance. Both pedestrian entrances connect to the proposed bus stop on the Kells Road and are to have clearly marked pedestrian crossing facilities within the site and crossing the Kells Road.

7.8. Right of Way issues

- 7.8.1. The Third Party Appellants are concerned about the impact of the proposed development on their 'right of way'. As part of their submission to the application David Goonan and Bernard Weldon submitted a map showing their property marked red 'Map Ref.10'. They provide that they have always benefitted from a right of way to their property from the now closed entrance shown green on this map. They note that paragraph 3.2.1 of the TTA states: *The previous direct priority access to the site from the former N3 has been closed.* Sean Lynch states this is incorrect as property owners in Balmoral Estate they have unfettered right of way through this site entrance and it is not closed.
- 7.8.2. They provide that they have always benefitted from a right of way to their property from the now closed entrance from the Kells Road. They note that in agreement with the Council the applicant of the current application constructed a new entrance from the Navan Inner Relief Road. They provide that the construction of this entrance has infringed on their right of way by creating a traffic hazard. This is mainly due to its position, the difference in ground levels and the consequent steep gradient of the access road from the public road to Balmoral Estate. Also, a section of a building was demolished by the applicant to provide them with a new right of way. They provide that there is no current legal agreement in place in this regard. While they use this right of way they could be forced to abandon it at any time. They are

concerned about traffic hazard for cars exiting the site. They note that it is necessary to drive into the oncoming traffic lane and this manoeuvre is more dangerous when driving a larger vehicle. They consider that it would be safer to revert back to using the original entrance.

- 7.8.3. The F.I response from the Applicants notes that Condition no.4 of Ref.PL32.225473 required the existing entrance to the Balmoral Estate to be closed within one month of the opening of the signalised junction with the N3. A locked gate now exists at the existing entrance which generally remains closed to the public. They note a small number of single unit owners to the rear of the Estate seek to maintain access to the existing entrance, although a newly constructed and safer fully compliant/signalised junction is now in place to serve the overall Estate, over which these owners have been granted full use. The gate remains locked and is not accessible to the general public. They provide that no material works are envisaged in this application which will affect the use of the existing right of way indicated in yellow on the attached Estate Map (Appendix 3 of their submission), which will remain in the ownership of the Applicant. If temporary alternative access is needed at any stage of the proposed works, then safe and suitable access will be provided to and from the Estate for any required users. They include a Report prepared by Trafficwise Ltd consulting engineers in Appendix 5 of their F.I response to provide clarity in relation to the right of way onto the Kells Road.
- 7.8.4. They provide that the gate and access is in the ownership of the Applicant (Foxtrot Investments 2011 Limited). Owners of units in the Balmoral retain historic legal rights to this entrance. While the majority of the units in Balmoral Estate now use the current approved access arrangement some individual unit owners seek to retain these rights. The Applicant has facilitated this with keys to the gate for the individual unit owners. There is sufficient space between the gate and the Kells Road for the user to stop to open/close the gate without impeding the flow or safety of vehicles travelling along the Kells Road. They understand that the PA has monitored this infrequent usage insofar that such minimal use satisfies the requirements of Condition no.4 of the previous permission.
- 7.8.5. The First Party confirm that the 'right of way' is to be retained. No material works are envisaged under this application which will affect the use of the existing right of way.

It is to be retained as a one-way access. However, the gates onto the Kells Road are to remain locked and not accessible to the general public with only a number of single unit owners to the rear of Balmoral Estate seeking to maintain access to the entrance. They have regard to wayleaves shown yellow. They provide that the Appellants have not been impinged by the proposed development with regard to access to the Kells Road. It is noted that the signalised access junction to the N51 is now in place to serve the overall Estate over which there is (including for the Appellants) full access and egress.

- 7.8.6. It is of note that the issue of ownership or 'right of way' is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development*". Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*"

7.9. **Special Development Contributions**

- 7.9.1. Section 48(2)(c) of the Planning and Development Act 2000 as amended provides for special development contributions i.e: *A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.*
- 7.9.2. Regard is also had to Section 48(12) which notes that where payment of a special condition is required in accordance with Section 48(2)(c) the following provisions shall apply: (a) *the condition shall specify the particular works carried out, or proposed to be carried out, by the local authority to which the contribution relates.*
- 7.9.3. The Development Contributions Guidelines for Planning Authorities 2013 notes that: *A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution*

scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.

- 7.9.4. Section 4.2 of the Meath County Council Development Contributions Scheme 2016-2021 relates to Special Development Contributions. This includes: *The Planning Authority must specify in a planning condition attached to the grant of permission, the particular works carried out, or proposed to be carried out, to which the contribution relates.* The Council's Transportation Section included that the applicant be required to pay a special levy of €65,000 as a contribution *toward footpath and cycle infrastructure required to facilitate the development.* Condition no. 31 of the Council's permission relates. In view of the documentation submitted relative to the need for this infrastructure to facilitate permeability both for the development and later phases of the development as envisaged by MP2, it is considered justified if the Board decide to permit to include such a condition.

7.10. Drainage and Flood Risk

- 7.10.1. An Engineering Services Report has been submitted by Hendrick Ryan Associates. This notes that the site is serviced by an existing road network with underground services including water-mains, foul sewers and storm sewers. The site is currently serviced with potable water through a water-main from the Kells road. The proposed development is to be connected to the existing water supply which has been previously provided in the industrial estate.
- 7.10.2. Separate foul and storm drainage systems exist on the site which may be altered during the proposed works. A public foul and public storm sewer also cross the site at different locations. The existing public sewer crossing the site is to be maintained without modification. Estimates are given of the predicted flow from the new development.
- 7.10.3. The site is in the catchment area of the River Blackwater. All storm-water drainage from the area is currently collected in a storm drainage system prior to discharging to

the river adjacent to the eastern boundary of the site. The River Blackwater meets and discharges into the River Boyne further downstream in the centre of Navan. They provide details of the proposed storm water system and note that this had been designed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works. They also have regard to discharge from the proposed attenuation system and provide calculations.

- 7.10.4. The Council's Water Services Section considered the proposed attenuation system unacceptable and recommend that a revised system be submitted. They also advised that permeable paving be incorporated to any external parking spaces at ground floor level. It is recommended should the Board decide to permit that a condition relative to drainage be included.
- 7.10.5. An Assessment of Flood Risk relative to Balmoral Industrial Estate is also included. Regard is had to the Flooding History and to the Risk of Flooding on the site. Note is had of: *The Planning System and Flood Risk Management: Guidelines for Planning Authorities 2009*. It is provided that the subject site is in zone C which is outside Zones A or B and is not at risk of flooding. The main flood risk to the development is whether it is of such a size or nature relative to the receiving watercourse/drainage system that there could be a significant increase in surface water run-off from the area. Rainwater falling within the site is contained within the site boundary and prevented from escaping to the adjoining road network. They provide that the proposed development will be provided with a storm-water drainage system designed to cater for the 1 in 100 year event. A restricted discharge rate minimises the effect that the development may have on the public drainage system and mitigates any contribution to potential flooding downstream. They conclude that if the proposed development at Balmoral Industrial Estate is carried out, the flood risk, if any, which the development poses to the site or to other properties will not be significant.

7.11. **Appropriate Assessment**

- 7.11.1. A Screening for Appropriate Assessment Natura Impact Statement has been submitted with this application. This notes that overall the site contains no habitats or features of any significant ecological value and the proposed development is being designed in such a way as to ensure that significant ecological effects do not occur.

The River Boyne and River Blackwater SAC (002299) and SPA (004232) is located immediately to the north of the River Blackwater. This designation includes the river itself and a small piece of land to the south of the river and to the east of the application site. The application site is not within the designated areas.

- 7.11.2. It is considered that the proposed development (the impact 'source') is potentially linked via water (the impact 'pathway') with the European sites (the 'receptors') associated with the River Blackwater and River Boyne due to its proximity to the European sites. For this reason, it is necessary to undertake the AA process. Section 4 provides the Natura Impact Statement. This examines the potential impacts of the proposed development on the integrity of the European sites, in the context of the Conservation Objectives of the sites.
- 7.11.3. The generic Conservation Objectives of the River Boyne and Blackwater SAC are: *To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.*
- 7.11.4. The generic Conservation Objectives of the River Boyne and River Blackwater SPA are: *To maintain or restore the favourable conservation condition of bird species list as special conservation interests for the SPA.*
- 7.11.5. Table 1 of the Screening Report outlines the Qualifying Interests for the SAC and SPA. According to information provided by the NPWS the main threats to the ecological interests of the River Boyne and River Blackwater SAC are further drainage schemes and water pollution. It is provided that a reduction in the input of pollutants to the system is required to preserve the important aquatic interests of the site. According to the information provided by the NPWS there are no known threats to the ecological interests of the River Boyne and River Blackwater SPA.
- 7.11.6. The proposed Masterplan will result in the redevelopment of an existing industrial/commercial site. It is not proposed to undertake any works on the designated sites. In the event, that contaminated water should enter the River Blackwater during construction or operation of the proposed development, there is the potential for negative impacts on the integrity of the designated site. The NIS provides that the only potentially significant impacts arise from the following risks: *The demolition of existing buildings and the proposed construction of new development could potentially result in contaminated surface water being discharged*

to the River Blackwater. Also: The operation of the proposed development could potentially result in contaminated surface water or wastewater being discharged to the River Blackwater.

- 7.11.7. Standard Construction Methods integral to the design of the project are given. These include in order to ensure there are no demolition or construction impacts, either on European sites or on water quality in general, all hazardous substances, such as fuels, oils, cement and concrete products, will be stored on-site in secure areas remote from drainage connections to the existing surface water drainage network. The contractor will take adequate precautions as part of the construction methodology to avoid any pollution from construction activities via run-off to the surface water drainage network. A construction method statement and risk assessment will be put in place by the contractor to ensure compliance.
- 7.11.8. Once operational the proposed development will be connected to the existing sewerage infrastructure. Waste water produced in the development will be treated at Farganstown Waste Water Treatment Works, which has adequate capacity, and will therefore pose no risk to water quality in the River Boyne and or the River Blackwater.
- 7.11.9. Storm and surface water arising at the completed development will be collected and directed to attenuation tanks prior to discharge to the existing surface water network. Flow will be restricted to pre-development levels. No material changes to the quantity or quality of discharge are expected and therefore there is no risk to water quality.
- 7.11.10. Regard is had to in-combination effects. This notes that Meath CDP 2013-2019 and Navan Town DP 2009-2015 (as varied) were reviewed as part of the assessment into potential 'in combination' effects as these strategic plans guide future development of Navan and its hinterlands. The Plans have been subject to assessment under Article 6(3) of the Habitats Directive and it was concluded that the Plan would not result in any significant effects nor would it have the potential to affect the integrity of the River Boyne and Blackwater SAC and SPA.
- 7.11.11. It is not considered likely that the proposed project would have any significant effects on any European site. As such it can be concluded that the development either on its own or in-combination with other development will have no impact on the European sites. It is also noted that the proposed development is the first in a series of

development under a proposed Masterplan. They provide that each separate element of the Masterplan will be subject to AA in its own right.

7.12. Conclusion relative to NIS

7.12.1. The NIS concludes that with the application of standard construction methods integral to the design of the project, it can be clearly demonstrated that no elements of the project will result in any significant effects on the integrity of Qualifying Interests/Special Conservation Interest of any European site, in particular the River Boyne and River Blackwater SAC and SPA, either as a stand-alone development or in combination with other plans or projects.

7.12.2. Having regard to the above I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites: River Boyne and River Blackwater SPA and SAC (site codes 004232 and 002299), or any other European site, in view of the site's Conservation Objectives.'

7.13. Screening for Environmental Impact Assessment

7.14. Having regard to the nature the proposed development and taking into account the existing commercial development on this site, the capacity of the soils on site to accommodate wastewater and the distance of the site from nearby sensitive receptors, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1.1. I recommend that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the development plan zoning objectives to provide a mixed use gateway building on this site, the scale of development proposed together with the non-residential nature of adjoining uses and the existing road infrastructure serving the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Meath County Development Plan 2013-2019, the Navan Development Plan 2009-2015 (as amended), would be acceptable in terms of traffic safety and public health, would not seriously injure the amenities of the area and would have no material impact on Navan Town Centre. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 21st day of June 2018 and the 4th of July 2018 and by the further plans and particulars received by An Bord Pleanála on the 19th day of September, 2018, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the uses of the proposed development shall be restricted to the uses as described in the planning application (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of residential amenity.

3. 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 the visual amenities of the area.

4. (a) Apart from the signage shown on the submitted drawings, no further advertisement or advertisement structure, including flagpoles, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

(b) Only one double sided post sign shall be permitted on site, this shall not exceed 6m in height.

Reason: In the interest of the visual amenity, and to allow the planning authority to assess any further signage through the statutory planning process.

5. (a) The vehicular access arrangements, internal road network and car parking layout including the underground carpark to service the proposed development shall comply with the detailed requirements of the planning authority for such works.

(b) The car parking facilities, hereby permitted, shall be reserved solely to serve the proposed development.

(c) Cycleways and footpaths shall be provided between the proposed front boundary and the public road carriageway in accordance with the requirements of the planning authority.

Reason: To ensure a satisfactory standard of development and in the interests of permeability.

6. Prior to the commencement of development on site the applicant shall submit a completed Road Safety Audit (Stage 1 - 4) for the entire development and amended drawings as necessary to incorporate the recommendations. The amended drawings and road layout (incorporating Stage 2 recommendations) shall be in accordance with the written agreement of the Planning Authority.

Reason: In the interest of Traffic safety.

7. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
 - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

8. Provision shall be made for the provision of a bus stop in accordance with Drawing No.14.36.112. submitted on the 21st of June 2018.

Reason: To facilitate public transport.

9. Water supply and drainage arrangements including basement drainage, and the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before any of the commercial units are made available for occupation.

Reason: In the interest of public safety and visual amenity.

11. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

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

12. 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.

13. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

14. The construction of the development shall be managed in accordance with a Construction 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 of intended construction practice for the development, including:
 - (a) Location of the site and materials compound including areas identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;

- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Arrangements relative to the gated access from the Kells Road;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

15. Site development and building works shall be carried out only between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 hours of operation of the discount store and off-licence shall be between 8.00 hours and 22.00 hours Monday to Saturday and between 10.00 hours and 22.00 hours on Sunday and public holidays.

Reason: In the interest of the residential amenities of property in the vicinity.

17. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

18. 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.

19. The developer shall pay the sum of € 65,000 (sixty five thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of footpath and cycle infrastructure required to facilitate the development. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Angela Brereton
Planning Inspector

30th of November 2018