



An
Bord
Pleanála

Inspector's Report

ABP-307527-20

Development	Retention Permission for replacement and erection of a freestanding advertising sign measuring 6000mm x 4050mm.
Location	Lands West of Northbound Carriageway, of the M1 Motorway between, Junction 5 & 6 at, Rowans Big, Lusk, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0107
Applicant(s)	Circle K Ireland Energy Group Limited
Type of Application	Retention Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Circle K Ireland Energy Group Limited
Observer(s)	Transport Infrastructure Ireland (TII)
Date of Site Inspection	13 th of August 2020
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The subject site is located at lands west of the northbound carriageway of M1 Motorway, between junction 5 and junction 6, Rowans Big, Lusk, Co. Dublin. The application site is beyond the slip road area for junction 5, on the western side of the M1 travelling northwards. The site is located close to the road frontage of the eastern part of a field, which is in agricultural use and is adjacent to the M1. Only one half of the 'Circle K' sign was visible on the day of the site visit, in that the sign is now not complete and one half has been removed. Also, the lower part of the sign is screened by trees and planting in full leaf. This is a fast and busy stretch of the M1 with little safe stopping area to view the sign. While there are road directional signs there are no other similar type advertising signs visible in proximity from the side of the M1.

2.0 Proposed Development

- 2.1. This is for Retention of Replacement and Erection of a Freestanding Advertising sign Measuring 6000MM x 4050MM (24sqm in area) and is fixed on a steel supporting frame. The sign has a maximum height of 10m above ground level. The proposed sign advertises a petrol filling station at a location c.10km to the north-west of the subject site which is within the administrative boundary of Meath.
- 2.2. Drawings have been submitted by DMA Consulting Engineers showing the location and details of the sign.
- 2.3. A letter providing the background and rationale for the proposed development has been submitted by Coakley O'Neill town planning.
- 2.4. A copy of the land-owner's letter of consent has been submitted.

3.0 Planning Authority Decision

3.1. Decision

On the 12th of June, 2020, Fingal County Council, refused retention permission for this development for the following reasons:

1. *The subject site is zoned 'HT' 'provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment' in the Fingal DP 2017-2023. The proposed development, that being an advertising sign for a petrol filling station which is c. 10km from the subject site and therefore not situated at the location of the sign would not contribute towards achieving the zoning objective or vision for the applicable zoning at this location and therefore contravene materially the zoning objective for the lands. The proposal would contravene materially Objective DMS14 of the Fingal Development Plan 2017-2023 which seeks to resist such signage.*
2. *The proposed development is contrary to the Spatial Planning and National Roads (Department of Environment Community and Local Government), January 2012 which seeks to avoid proliferation of roadside signage and would therefore be contrary to the proper planning and sustainable development of the area.*
3. *The proposed development is not considered to be essential signage, would draw the attention of users of the M1 Motorway away from the road towards the sign thereby creating a distraction to road users at this location, would reduce the effectiveness of essential signage, specifically road traffic signs at this location of the M1 Motorway and would therefore endanger public safety by reason of traffic hazard.*

3.2. Planning Authority Reports

Planner's Report

This has regard to the locational context of the site, planning history and policy, to the reports submitted. Their Assessment included the following:

- The proposed sign in this location c. 10km from the subject site, does not accord or contribute to the zoning objective and would materially contravene this 'HT' zoning objective and Objective DMS14 of the Fingal DP which seeks to resist such signage.

- It is contrary to policy outlined and would be at variance with the Spatial Planning and National Roads (DoECLG) 2012 relative to signage proximate to the M1 motorway.
- The scale and design would be detrimental to the visual amenities of the area. It is not considered that this proposal can be assimilated into this Highly Sensitive Landscape without detriment to same.
- They note that the Transportation Planning Section recommends that the proposed advertising signage be refused on the basis that it would represent a traffic hazard and cause distraction to road users on the M1.
- Having regard to the nature and location of the proposed development, no negative impacts on Natura 2000 sites are anticipated.
- In view of the issues of concern relative to the scale and nature and siting of the sign proposed for retention proximate to the M1 they recommend that this retention permission be refused.

3.3. **Other Technical Reports**

Transportation Planning Section

They recommend that this application be refused on the grounds that the development would be contrary to the policy of both TII and Fingal County Council.

Water Services Department

They have no objections subject to conditions.

3.4. **Prescribed Bodies**

Irish Water

They have no objections subject to conditions.

3.5. **Third Party Observations**

The Planner's Report notes that no observations/submissions have been received.

4.0 Planning History

The Planner's Report provides details of the Planning History of the site, which includes the following:

- F05A/0510 – Permission granted for 2 no. non-illuminated site development signs for a period of two years at Rowans Big, Lusk, Co. Dublin. Applicant – Hakaton Ltd.
- F03A/0281 – Permission granted for 5 no. non-illuminated site development signs for a period of three years – ditto.

This includes that the permissions referred to (above) related to signage associated with the development of lands where they were located, specifically the development of a proposed business park.

5.0 Policy Context

5.1. Project Ireland 2040 – National Planning Framework

This aims to provide a broad ranging guide to development and investment over the coming years and seeks to empower national, regional and spatial planning in economic, environmental and social terms to 2040. In conjunction the National Development Plan 2018-2027 seeks to provide a ten-year strategy for public investment.

Chapter 5 and Section 5.2 provides the National Strategic Outcomes and Public Investment Priorities. National Strategic Outcome 2 provides for Enhanced Regional Accessibility.

Spatial Planning and National Roads Guidelines 2012

These guidelines were issued under Section 28 of the Planning and Development Act 2000(as amended) by the Department of Environment, Community and Local Government in January 2012.

Section 3.8 includes reference to:

On national roads, the erection of signage needs to be tightly regulated for road safety and environmental reasons. Planning authorities must avoid proliferation of roadside signage, especially outside the 50-60 kmh speed limit areas in a manner

that would reduce the effectiveness of essential signage such as directional and other authorised road traffic signs, create visual clutter and distractions for road users and/or reduce visibility at junctions, interchanges and bends.

This also notes: *Advice and guidance in respect of signage on national roads concerning major tourist and leisure features and facilities has been outlined in the NRA's Policy on the Provision of Tourist & Leisure Signage on National Roads (March 2011) which is available to download from the publications section of the NRA's website.*

5.2. Fingal County Development Plan 2017-2023

Zoning

The site is located in the 'HT' High Technology zoning where the Objective seeks to:

Provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment.

The Vision seeks to: *Facilitate opportunities for high technology, high technology and advanced manufacturing, major office and research and development based employment within high quality, highly accessible, campus style settings. The HT zoning is aimed at providing a location for high end, high quality, value added businesses and corporate headquarters. An emphasis on exemplar sustainable design and aesthetic quality will be promoted to enhance corporate image and identity.*

Sheet 2 North Fingal shows that the 'HT' zoning in this location is subject to a LAP 2A refers.

Advertising signage

Objective DMS11 seeks to: *Evaluate signage proposals in relation to the surroundings and features of the buildings and structures on which signs are to be displayed, the number and size of signs in the area (both existing and proposed) and the potential for the creation of undesirable visual clutter.*

Objective DMS14 seeks to: *Resist new billboard and other large advertising structures and displays.*

5.3. Natural Heritage Designations

There are no NHA's or Natura 2000 sites within proximity to the site.

6.0 The Appeal

6.1. Grounds of Appeal

Coakley O'Neill town planning have submitted a First Party Appeal on behalf of the Applicant which includes regard to the locational context, legislative provisions and planning context. They note the Council's reasons for refusal and their grounds of appeal include the following:

Rationale and Planning Considerations

- The purpose of the sign is to advertise, on a temporary basis, their client's new service station that has recently opened off Junction 7 of the M1 motorway.
- They refer to the Council's warning letter relative to the replacement sign and seek to regularise the situation with the submission of a planning application.
- They provide details of the rationale for the proposed sign and note that retention permission is sought for a temporary period by the PA.
- In terms of permitted uses advertising signage is open to consideration provided that the proposed structure does not detract from the landscape quality of detract from the overall vision for the site.
- This will not cause a proliferation of signage and that the sign is not unduly obtrusive and is sympathetic to its surroundings and complies with Planning Policies and Objectives.
- Advertising signs are neither 'Permitted nor Not Permitted' in the 'HT' zoning.
- The purpose of the sign is to facilitate and support economic development and there is a general need to advertise business.
- This is especially important for service station uses which need to provide for passing traffic.

- They note that the use of the site for advertising purposes has been granted previously having regard to expired temporary permissions.
- They consider that the sign for retention is well designed and is sensitively located and will attract attention without causing an undue distraction.
- It does not cause traffic hazard or impair sightlines.
- It could not be mistaken for, or confused with, traffic lights or any other authorised signals.
- They submit that the Board should consider granting permission on a temporary basis and that the Council's reasons for refusal are unwarranted.

6.2. Planning Authority Response

They have reviewed the grounds of appeal and request the Board to uphold the decision of the PA in respect of the issues raised in the appellant's submission.

In the event that this appeal is successful, provision should be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

6.3. Observations

Transport Infrastructure Ireland (TII) advises that the control of signage along national roads, such as the M1 motorway, is essential to protect the levels of safety on the network, particularly on sections of the network that are subject to high traffic speeds and significant traffic volumes.

- They note Section 3.8 of the Spatial Planning and National Roads Guidelines for Planning Authorities relative to proliferation of roadside signage and implications for traffic hazard.
- They are concerned to avoid visual clutter/proliferation of signage and to promote safety and efficiency by providing for the orderly movement of traffic.
- They consider that the cumulative impact of this proposal taken in combination with other commercial signage along the route has the potential

to create visual clutter and distraction for road users on an important strategic and heavily trafficked motorway where maximum speed limits apply.

- They support the decision of the Council to refuse permission for signage contrary to planning policies and the DoECLG.

7.0 Assessment

7.1. Context and Policy Considerations

7.2. The subject site is located on lands to the west of the northbound carriageway of the M1 Motorway, between junction 5 and Junction 6, Rowans Big which is a rural area to the north west of Lusk. The site comprises part of an agricultural field frontage which bounds the M1 motorway along its western side. Details submitted provide that the purpose of the subject signage is to inform the public of the recently opened Circle K filling station located at Junction 7 on the M1, c.10km north of the site. It is provided that the location of this sign is important to provide motorists with information of the station at a reasonable distance for the purpose of travel safety.

7.2.1. While within the 'HT' High Technology zone (the objective and vision for which, are noted in the Policy Section above), as shown in the Fingal CDP 2017-2023, the sign is located within the rural agricultural area and is on the opposite side of the road and not related to the HT park, rather to a filling station 10kms to the north. It is noted that advertising structures are neither 'Permitted' nor 'Not Permitted' in the HT zoning. A Note is included at the base of this table which provides: *Uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.* In this case it is not clear how the proposed retention of this sign would comply or be consistent with the zoning objective.

7.2.2. The issue with a retention permission is whether permission would have been granted if the development was not there in the first place, i.e having regard to first principles. The Council refused retention permission for 3no. reasons including that it would materially contravene the 'HT' zoning objective for these lands and objective

DMS14 of the Fingal DP 2017-2023 which seeks to resist such signage i.e. *Resist new billboard and other large advertising structures and displays.*

- 7.2.3. The issue of material contravention is discussed as are concerns relative to the proposed retention being contrary to the Spatial Planning and National Road (DoECLG), January 2012 which seeks to avoid proliferation of roadside signage, and to the proposal not being considered essential signage and potential for traffic hazard on the side of the M1 motorway in this Assessment below.

7.3. **Design and Impact on the Character and Amenities of the Area**

- 7.3.1. Drawings submitted show the location and design of the sign for retention. The freestanding steel support structure is 10m in height and the sign is located on the top part and is 4m high and 6m in depth i.e c. 24sq.m. It red with white lettering and is not illuminated or back lit. A cross section has been submitted showing the dimensions of the support structure.
- 7.3.2. It is noted that the lands are separated from the motorway by hedgerows and trees, that flank the motorway on both sides and limited views of the countryside. The sign, part of which has been removed and part of the steel supporting structure is partly visible above this roadside hedging. While painted red it is not illuminated and the First Party do not consider it to be visually obtrusive. However, while one half of the sign has been removed (see previous photos showing the whole sign in situ), it is still visible above the trees/hedgerows especially when travelling north from Junction 5 of the M1. Also, the site visit was in August when trees are in full leaf.
- 7.3.3. It is noted that there is not a proliferation of such signage in the area. The subject sign is located c. 600m from Junction 5, there are no further signs located within the area, including formal motorway signs. However, it could set an undesirable precedent for such signage contrary to planning Objectives DMS11 and DMS14 and be considered a distraction and is not essential to this location and does not add to the character and amenities of the area.

7.4. **Road Safety issues**

- 7.4.1. Such issues are referred to in reasons nos. 2 and 3 of the Council's refusal. The TII requests that the provisions of Section 3.8 of the DoECLG 'Spatial Planning and

National Roads Guidelines of Planning Authorities' (2012) relative to the restriction of advertising on National Roads are considered by the Board in their assessment of the subject application. It is noted that these Guidelines are referred to in the Council's Transportation Planning Section Report and that the latter recommend that the development be refused on the grounds it would be contrary to the policy of both the TII and Fingal County Council.

- 7.4.2. As per their Observation the TII are of the opinion that the proposed retention of this signage would set an undesirable precedent for other similar development on the M1 at a location where a 120kph speed limit applies and would, therefore, be contrary to the proper planning and sustainable development of the area. Therefore the Authority provide that they support the decision of the PA, to refuse planning permission for the signage concerned which is at variance with the provisions of the DoELG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and would endanger public safety by reason of traffic hazard and impede the safety and free flow of traffic on the M1 motorway by constituting a visual distraction to drivers, having regard, in particular, to the location, scale and design of the subject sign.
- 7.4.3. Having regard to these issues, including as noted in the above Guidelines, and to avoid visual clutter and traffic hazard relative to the retention of this non-essential sign, I would recommend that the Board take into account the advice of the TII and the Council's Transportation Planning Section and refuse permission for the proposed development.

7.5. **Material Contravention**

- 7.5.1. As noted above permission for this proposal has been refused by the Council for 3no. reasons which include reference to material contravention. These include that the proposal would materially contravene the 'HT' High Technology zoning objective and objective DMS14 i.e: *Resist new billboard and other large advertising structures and displays*. The Council consider that the retention of this advertising structure would not be compatible with and would materially contravene these objectives and contravene the Spatial Planning and National Roads (DoECLG) January 2012 which

seeks to avoid a proliferation of roadside signage and to the proper planning and sustainable development of the area.

- 7.5.2. The First Party consider that the advertising sign is sensitively designed and is standalone, not visually obtrusive and is not detrimental to road users and does not cause a proliferation of signage in the area. In this case I did not note any similar such advertising signs along this stretch of the M1, so the issue of undesirable precedent arises.
- 7.5.3. Section 34(6) of the Planning and Development Act 2000 sets out the procedure under which a planning authority may decide to grant permission for a development which they are concerned would contravene materially the development plan or local area plan. Section 37(2) of the 2000 Act provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to regional planning guidelines and policy for the area etc., where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.
- 7.5.4. I would consider that the 'HT' zoning objective and objective DMS14 in the Fingal DP proposal are clearly stated and that there is no pattern of development for such non-essential advertising signage proximate to the M1 motorway and that the proposal is materially contrary to Objective DMS14 of the said Plan. Also, in this case the advertising structure in this location is proximate and visible from the M1 motorway and would contravene Section 3.8 of the Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG), January 2012.

7.6. Regard to Temporary Permission

- 7.6.1. The First Party submit that the subject sign comprises a non-illuminated sign to be erected on a temporary basis and as a replacement of an existing signage structure, at a site where two similar permissions for temporary signage have previously been granted. They provide that notwithstanding the arguments made in this appeal if the Board have concerns in relation to the use in an 'HT' zone and its impact on the

immediate area they would be willing to accept a two year temporary permission. They consider that this will enable the PA to review the implemented development following the period of such a condition.

- 7.6.2. Regard is had to Section 7.5 of the Development Management Guidelines 2007 which provides guidelines about when a temporary permission maybe appropriate. This includes: *It must be remembered that the material considerations to which regard must be had in dealing with applications are not limited or made different by a decision to make the permission a temporary one.*
- 7.6.3. Therefore, I would, not consider it appropriate to grant a temporary permission if the Board considers the proposal to be in material contravention to the 'HT' zoning objective and Objective DMS14 of the Fingal Development Plan 2017-2023.

8.0 Recommendation

I recommend that retention permission be refused for the Reasons and Considerations below.

9.0 Reasons and Considerations

1. The “Spatial Planning and National Roads Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government (2012) seek in Section 3.8 to: “avoid proliferation of roadside signage, especially outside the 50-60 km/h speed limit areas in a manner that would reduce the effectiveness of essential signage such as directional and other authorised road traffic signs, create visual clutter and distractions for road users and/or reduce visibility at junctions, interchanges and bends”. The advising sign for retention would be contrary to the said Guidelines, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It would materially contravene the zoning Objective 'HT' High Technology as it would not be in compliance or consistent within policies or objectives of the Fingal County Development Plan 2017 – 2023 and in particular Objective DMS14 which seeks to resist large advertising structures. As such it would set

an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

Angela Brereton,
Planning Inspector

2nd of September 2020