



An  
Bord  
Pleanála

## Inspector's Report ABP-313488-22

<b>Development</b>	The replacement of 2 existing backlit '48 sheet' advertising panels (6.0m x 3.0m) with a single 6.0m x 3.0m digital advertising panels along with all associated site works & services.
<b>Location</b>	22 Fox and Geese, Naas Road, Dublin 22.
<b>Planning Authority</b>	South Dublin County Council.
<b>Planning Authority Reg. Ref.</b>	SD22A/0046.
<b>Applicant(s)</b>	GWR Property Company Limited.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant</b>	GWR Property Company Limited.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	22 <sup>nd</sup> day of September, 2022.
<b>Inspector</b>	Patricia-Marie Young.

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	4
3.4. Third Party Observations .....	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations .....	7
5.3. EIA Screening .....	7
6.0 The Appeal .....	8
6.1. Grounds of Appeal .....	8
6.2. Planning Authority Response .....	10
6.3. Observations .....	10
7.0 Assessment .....	10
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	16

## **1.0 Site Location and Description**

- 1.1. The 0.002ha appeal site is located on the southern side of the heavily trafficked Naas Road (R110) at a point where the posted speed limit is 60kmph. It is situated c295m to the south west of Naas Roads intersection with the Nangor Road (R134) and the Long Mile Road and c695m to the north east of where it merges with Junction 9 of the M50 and the N7. The site limited in area site forms part of a larger car parking area and contains an existing large-scale two-sided advertising board. The surrounding area is predominated by commercial, industrial, warehousing with some retail uses.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for the replacement of 2 no. existing backlit '48 sheet' panels measuring 3.0m by 6.0m (facing eastbound and westbound along the Naas Road) with a single digital advertising panel measuring 3.0m by 6.0m (facing eastbound traffic only). The proposed panel would be mounted onto 4 supporting columns which would be covered at the front by ribbed metallic plate with a backlit logo box and a camera for screen monitoring. The proposed reduction in advertising space would be reduced from 36m<sup>2</sup> to 18m<sup>2</sup>. The depth of the proposed single panel is given as 0.25m whereas the existing backlit panels measure a given c3m. The digital panels would be secured in place by three supporting cast concrete columns (Note: 2,600mm deep and 500m diameter). The overall structure would have a height of 6.65m and 3m width. It is proposed that the digital panel will display advertisements on-screen with a change frequency of no greater than one every 10 seconds. With the change over between adverts being instantaneous. It is indicated that the display would not include any animated or moving images and the level of illumination would not exceed 300 cd/sq. m. at night-time.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. By order dated 7<sup>th</sup> day of April, 2022, South Dublin City Council issued notification of its decision to refuse permission for the proposed development for the following stated single reason:

*“The proposed development would endanger public safety by reason of traffic hazard. The Planning Authority have concerns that the illuminated display panel sign will be a distraction to road users. This location is alongside a wide section of road containing two traffic lanes and a bus lane. It is in proximity to major junctions resulting in substantial traffic movements. Even considering the controls suggested in the Digital Advertising Highway Safety Report submitted with the application, it is considered that the distraction potential of an illuminated digital sign on road users constitutes a traffic hazard. As the proposal would impact injuriously on road safety this would not comply with Schedule 6 Implementation of the Outdoor Advertising Strategy of Variation 5 Outdoor Advertising of the South Dublin County Development Plan 2016-2022.”*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planning Officer's report dated the 7<sup>th</sup> day of April, 2022, is the basis of the Planning Authority's decision. This report considers the proposed development in the context of the details submitted with the application, internal technical reports, planning history of the site, through to the applicable Development Plan policies and objectives of the previous Development Plan which has in the interim period expired and a new Development Plan adopted. It raises concern that the proposed digital panel would together with the frequency of change of the advertisements displayed every 10 seconds create a concern for the Planning Authority that due to its location alongside a wide section of road containing two traffic lanes, a bus lane, a cycle lane and a pedestrian footpath, alongside proximity to major junctions and substantial traffic movements, an advertise distraction for road users. It concludes that the proposed development would endanger public safety by reason of a traffic hazard.

#### **3.2.2. Other Technical Reports**

**Roads:** Concludes with a recommendation of refusal.

**Water Services:** Additional information sought.

### **3.3. Prescribed Bodies**

#### **3.3.1. Irish Water:** Additional information sought.

### 3.4. Third Party Observations

3.4.1. None.

## 4.0 Planning History

### 4.1. Site

- **P.A. Ref. No. SD20A/0241:** Permission was refused for a replacement of 2 no. existing backlit '48 sheet' advertising panels (6m by 3m) with a single pole mounted digital advertising panel 5m by 7m for the following stated reasons:

- “1. The proposed advertisement structure, by reason of its excessive height, scale and significant increase in size in comparison to the existing structure, would result in an incongruous and visually prominent feature that would detract from the visual amenity and character of the area. Thus, the proposal would contravene the South Dublin County Development Plan 2016-2022, the Outdoor Advertisement Strategy and the proper planning and sustainable development of the area.
2. Having regard to the lack of information submitted in relation to the stability of the structure, and the proximity of the footpath and road, the Planning Authority is not satisfied, on the basis of the information submitted, that the proposed development would not result in a traffic hazard and endanger pedestrian/public safety and therefore is not in the interests of the proper planning and sustainable development of the area.
3. Having regard to the lack of information submitted in relation to foul and surface water, the Planning Authority is not satisfied, on the basis of the information submitted, that the proposed development would not be prejudicial to public health and therefore is not in the interests of the proper planning and sustainable development of the area.”

Decision date: 12.11.2020.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The appeal site is located in an area that is zoned objective ‘*Objective REGEN*’ under the provisions of the South Dublin County Development Plan, 2022-2028. The stated objective for these zoned lands is: “*to facilitate enterprise and/or residential-led regeneration subject to a development framework or plan for the area incorporating phasing and infrastructure delivery*”.
- 5.1.2. Section 13.4.7 of the Development Plan deals with the matter of Signage (Advertising, Corporate and Public Information). It indicates that signage includes that provided on stand-alone structures and states that it: “*has the potential to give rise to visual clutter and to alter the character of an area and as such will be carefully assessed*”. It further sets out that development proposals that include signage should take account of the following:
- “*In general, signs on a building should advertise goods or services that are associated with premises and no more than two advertising signs should be erected on any elevation;*
  - *Signs should generally be limited to the ground floor of a building unless located directly over the entrance to a major commercial or retail building;*
  - *Signs should be simple in design and integrate with the architectural language of the building and not obscure any architectural features;*
  - *Signs should be proportionate to the scale of the building to which they are attached and sensitive to the surrounding environment;*
  - *Signs attached to Protected Structures and in Architectural Conservation Areas should be in keeping with the character of the building and adhere to best practice conservation principles (see Section 12.3.8 Architectural Conservation Areas);*
  - *Any sign or associated structure should not create an obstruction to pedestrian or cyclist movement or create a traffic hazard;*
  - *Careful consideration should be given to the materials used in the construction of a sign and the methods used to light it.”*

This section of the Development Plan sets out that the criteria set out under Table 3.19 will also be applied.

5.1.3. Of relevance to this application Table 3.19 of the Development Plan sets out.

Type of Signs	Restriction On Use	Design Criteria
<b>Digital Signs</b>	<p>Generally, not appropriate with the exception of those that accord with the Council's signage strategy.</p> <p>May be considered in town centres and / or large retail precincts and at other suitable locations throughout the County.</p> <p>Not permitted on major roads unless signage relates to the signage strategy or traffic management and safety.</p>	<p>Should make a positive contribution to the public domain, omit no sound, have a minimum dwell period of 30 seconds (with a crossfade), not result in obtrusive light that will create unacceptable glare (adjusting to environmental conditions), have limited hours of operation (especially at night), not contain dynamic content (that is, video) and not constitute a traffic hazard.</p>
<b>Free Standing Advertisement Displays</b>	<p>Generally, not appropriate. May be considered at the entrances to shopping centres / major commercial premises and service station.</p>	<p>A maximum of 7m in height.</p>

## 5.2. Natural Heritage Designations

5.2.1. The site is not located within or close to any European site. The closest such sites are the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located c9.4 km to the north east at the closest point.

## 5.3. EIA Screening

5.3.1. The form of development proposed is not of a class for the purposes of EIA and therefore no screening assessment is required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The First Party's grounds of appeal can be summarised as follows:

- The proposed panels are within a car park located on the southern side of the R110 Naas Road and would contribute to the rationalisation of outdoor advertising in line with the Council's Outdoor Advertising Strategy as set out in 2016 to 2022 Development Plan.
- The proposed digital panel will enable a series of advertisements to be displayed on-screen with a rate of change no more frequent than one every 10 seconds.
- These panels will eliminate the frequent site visits to replace advertisement sheets and are a modern platform capable of facilitating multiple advertisement campaigns thereby reducing the demand for additional advertising space in the surrounding area.
- The Council permits such panels where they will not interfere with the safety of pedestrians or traffic.
- This proposal is supported by a detailed Highway Safety Report.
- Reference is made to a previous refusal for an alternative digital panel at the site under P.A. Ref. No. SD20A/0241. A revised proposal is now sought addressing the previous reasons for refusal.
- The site is located where outdoor advertising is open for consideration, subject to compliance with development management standards.
- Concerns are raised that the Roads Department stance in relation to this application and previous consultations are inconsistent.
- The Planning Authority's inconsistent application of the Development Plan policy on this site runs contrary to the Development Management Guidelines for Planning Authorities, which identify consistency in their interpretation as essential if public confidence in the planning system is to be maintained.
- There is established precedent for roadside digital advertising panels along national and regional roads across Dublin.



- There is a long history of advertising on this site.
- The proposed development would not represent a traffic hazard or endanger public safety.
- The proposed level of illumination is in keeping with the surrounding light environment and the level of illumination can be controlled by of a standard planning condition.
- The proposed change of frequency has been informed by an assessment of the site context, including the 60kmph speed limit.
- The Planning Authority in their determination of this application does not identify any specific features of the road or the surrounding area which would make this advertising use unacceptable.
- It is sought that the Board permit the proposed development and include the following condition:

*"I. Prior to the first operation of the digital advertising, a scheme for the testing of the appropriate level of illumination shall be submitted to and approved in writing by the local planning authority. Nonetheless, the maximum intensity of illumination of digital advertisement signs shall not exceed a 300cd/sqm at night-time.*

*II. The signs shall not display any moving, or apparently moving, images.*

*III. The sequential advertisements shall not change more than once every 10 seconds.*

*IV. Any change between advertisements will be immediate."*

- The appeal submission includes a number of attachments, the content of which I have noted. I consider that these documents relate to the key issues raised by the appellant in their submission to the Board. They include a report titled: 'South Dublin County Council Pl. Reg. Ref. SD22A0046 – 22 Fox and Geese, Naas Road, Dublin – Highway Safety Statement', prepared by Steer and dated May, 2022, which concludes that there is no valid highway safety reason to justify refusal of the application.

## 6.2. Planning Authority Response

- 6.2.1. Response received by the Board stating that the Planning Authority confirms its decision and that the issues raised in the appeals have been addressed in their Planning Officer's report.

## 6.3. Observations

- 6.3.1. None.

## 7.0 Assessment

- 7.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature of the proposed development, and the nature of existing and permitted development in the immediate vicinity of the site, together with an examination of all documents on file including submissions received by the Board I consider that the main issues pertaining to the proposed development can be assessed under the following headings:
- Principle of the proposed development
  - Traffic Hazard
  - Other Issues Arising
- 7.1.1. The matter of '*Appropriate Assessment*' also requires assessment.
- 7.1.2. Prior to commencing my assessment of this appeal case, the First-Party appellant in their appeal submission to the Board raises procedural concerns in relation to the Planning Authority's handling and determination of this application.
- 7.1.3. In relation to this concern and for clarity I note that the Board does not have an ombudsman role on such matters and its remit in this appeal case is a *de novo* assessment of the proposed development in terms of its appropriateness at this location in meeting the proper planning and sustainable development of this area in a manner that accords with relevant local through to national planning provisions as well as guidance.

7.1.4. For clarity I also note that since this application was lodged with the Planning Authority and on appeal with the Board that the local planning provisions have changed. The applicable Development Plan is the South Dublin County Development Plan, 2022-2028. This came into effect on the 3rd day of August, 2022 and is therefore the applicable Development Plan for the determination of this appeal case.

## 7.2. Principle of the Proposed Development

7.2.1. By way of this application planning permission is sought for the replacement of 2 existing backlit '48 sheet' advertising panels (6.0m x 3.0m) with a single 6.0m x 3.0m digital advertising panels along with all associated site works and services (See: Section 2.1 above for a detailed description). The site itself is a modest site of 0.002ha that forms part of a larger area of hard surfacing accommodating car parking and as said accommodates an existing advertisement structure that is visible to both eastbound and westbound traffic on the Naas Road.

7.2.2. The site is zoned objective '*Objective REGEN*' under the provisions of the South Dublin County Development Plan, 2022-2028. The stated objective for these zoned lands is: "*to facilitate enterprise and/or residential-led regeneration subject to a development framework or plan for the area incorporating phasing and infrastructure delivery*". Signage is not listed as being '*permitted in principle*', '*open for consideration*' or '*not permitted*'.

7.2.3. Section 13.1.1 of the Development Plan in relation to uses that are not listed under the land use zoning tables will be considered on a case-by-case basis in relation to conformity with the relevant policies, objectives and standards contained within the Plan. Particularly in relation to the zoning objective of the subject site and its impact on the development of the County at a strategic, national down to local level.

7.2.4. The site contains an existing advertisement structure that appears to date to c1980s for which I can find no evidence that planning permission was granted for.

7.2.5. In November, 2020, permission was refused for a replacement of 2 no. existing backlit '48 sheet' advertising panels (6m by 3m) with a single pole mounted digital advertising panel 5m by 7m for three given reasons. These I have set out in Section 4.1 of this report above and they could be summarised as follows: 1) the advertisement structure to be excessive in its height, scale and would result in an incongruous as well as visually prominent feature that would detract from the visual amenity of the area in a

manner that would be contrary to the Development Plans Outdoor Advertisement Strategy; 2) give rise to traffic hazard; and, 3) give rise to foul and surface water drainage concerns and in turn be prejudicial to public health.

- 7.2.6. I also note that the reasons for refusal also raised concerns with the lack of adequate information in relation to concern 2) and 3).
- 7.2.7. The applicant is of the view that this application addresses these concerns in full.
- 7.2.8. Section 13.4.7 of the Development Plan deals with the matter of Signage (Advertising, Corporate and Public Information). It indicates that signage includes that provided on stand-alone structures and states that it: *"has the potential to give rise to visual clutter and to alter the character of an area and as such will be carefully assessed"*. It further sets out that development proposals that include signage should take account of a number of criteria. In particular having reviewed the documentation that it is demonstrated that the signage does not create a traffic hazard; that they are sensitive to the surrounding environment; and, that careful consideration is given to the materials used in their construction alongside the methods used to lit them.
- 7.2.9. Further guidance is provided under Table 3.19 of the Development Plan. Of note in relation to digital signage it sets out in terms of restrictions that: 1) in general these are not considered appropriate with the exception of those that accord with the Council's signage strategy; and, 2) that they are not permitted on major roads unless signage relates to the signage strategy or traffic management and safety. In terms of design, it sets out that they should make a positive contribution to the public domain and have a minimum dwell period of 30 seconds, have limited hours of operation especially at night, should not contain dynamic content through to constitute a traffic hazard.
- 7.2.10. Of further relevance is the restrictions and guidance set out under Table 3.19 for free-standing signs, which this development relates to, albeit there is an existing advertisement structure which the proposed development seeks to replace. In relation to this type of signage it indicates that these are generally not considered appropriate and may be considered at certain location such as entrances to shopping centres, major commercial premises, and service stations. In terms of design the maximum height permitted is given as 7m.
- 7.2.11. The proposed digital signage would be positioned so that its display panel would be highly visible for eastbound traffic on the heavily trafficked Naas Road at a point where

there are the Naas Road is a heavily trafficked regional road that provides linkage to Junction 9 of the M50, with Junction 9 also providing linkage to the N7 c695m to the south west of the site.

- 7.2.12. Along this stretch of road there is a wide variety of signage present and visible to those journeying in bound on it prior to the location of where the digital signage is proposed.
- 7.2.13. Thus, the advertisement signage arising from the digital display would be more visually prominent, would add to visual clutter that is present and during more congested periods of the day the 10 second frequency of the changing advertisement displayed could add to the level of distraction for motorists journeying eastwards on the Naas Road in close proximity to its junction with the Long Mile Road and Nangor Road, which are also heavily trafficked regional roads. With the Naas Roads intersection with these regional roads situated c295m to the east.
- 7.2.14. Of additional concern this section of the Naas Road accommodates two rows of traffic journey east bound as well as a separate bus corridor, dedicated cycle lane and pedestrian footpath. This is replicated for west bound traffic. Though the posted speed limit is 60kmph I observed that eastbound traffic due to entering the Naas Road from a higher permitted kmph junction that traffic speed appears to exceed this maximum limit. This appears to arise from vehicles making the transition to lower traffic speeds associated with entering into what is essentially the lower speed environment of Dublin city.
- 7.2.15. Of further concern the display panel does not seek any limits to the hours in which it would be use and proposes a change frequency of no greater than one every 10 seconds for advertisements displayed. Whilst I note that these concerns could be amended by way of appropriately worded conditions.
- 7.2.16. Notwithstanding, at such a busy stretch of road the distraction of a digital sign that is a standalone structure would in my view give rise to in performing its function of various rolling advertisement campaigns being highly observable to passing motorists. With the advertisements visibility and variety being added to by the manner in which it would be illuminated which in itself is more visible to the existing backlit signage and would be more visible during evening, night time and inclement weather conditions 24 hours 7 days a week. Its illumination would arguably be further enhanced by the presence of a large standard street lamp in close proximity to the west of it.

- 7.2.17. Its location is also one that would conflict with the presence of traffic management signage in its proximity for eastbound motorist journey towards the heavily trafficked junction of the Naas Road with the Nangor Road and Long Mile Road.
- 7.2.18. Further, as said the purpose and use of the illuminated display sign is for rolling advertisement campaigns provided for by the applicants for commercial gain and are thus not for traffic management purposes.
- 7.2.19. I am not satisfied that the documentation provided with this application supports that the proposed development is consistent with the Development Plan provisions for this type of development or that the documentation provided with this application.
- 7.2.20. Which I note includes a Digital Advertisement Highway Safety Report and the further statement provided by the same authors of this report with this appeal submission sufficiently demonstrates that the proposed development is appropriate to its location and that it would not give rise to any traffic hazard at a location where such developments are not generally deemed to be permitted.
- 7.2.21. I also do not consider that the precedents referred to support the proposed development. This is based on the locational attributes not being identical and with the constraints of the site to accommodate this type of independent signage limiting its capacity to safely absorb such a development without giving rise to a type of additional signage clutter that is not site specific that is a type that is not generally permitted at such a location and where such signage are confined to displays that relate to traffic management and road safety.
- 7.2.22. I therefore consider that the Planning Authority's reason for refusal which essentially considered that the proposal would impact injuriously on road safety is with merit despite this reason considering that in so doing it would not comply with Schedule 6 Implementation of the Outdoor Advertising Strategy of Variation 5 Outdoor Advertising of the South Dublin County Development Plan, 2016-2022. The recently adopted South Dublin County Development Plan, 2022-2028, provides for more robust criteria for digital display signage and free-standing signage which the proposed development does not demonstrate compliance with nor does it provide any justification for the proposed development at a location where this type of development is not generally permitted. I further consider that the elimination of advertisement for the western side of the replacement digital advertisement panel is in itself not sufficient justification that

would support a grant of permission. I do not consider that there is any conflict in the local planning provisions in relation to this type of development having regard to the provisions of the South Dublin County Development Plan, 2022 – 2028, under which this proposal and its appropriateness has to now be assessed.

### **7.3. Other Issues Arising**

#### **7.3.1. Public Infrastructure:**

I am not satisfied that the documentation provided with this First Party Appeal submission shows that the proposed development could be accommodated on the 0.002ha site in a manner that would ensure a 3m separation distance between it and public sewer as well as public mains. Further the limited size of the site, its configuration and the nature of the proposed development sought is such that this concern in my view cannot be appropriately addressed by way of condition. I am therefore not satisfied based on the information provided with this application and on appeal that the proposed development, including the scope of ground works, would not be prejudicial to public health. This in itself is sufficient reason to warrant a refusal of permission.

#### **7.3.2. Section 48:**

The proposed development relates to a commercial development and is not of a class which is described in the Development Contribution Scheme as being exempt from paying a development contribution. The subject development is, therefore, liable to pay a S48 development contribution as it relates to a commercial development of 18m<sup>2</sup>.

### **7.4. Appropriate Assessment**

- 7.4.1. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located c9.4 km to the north east at the closest point to the site. Given the nature and extent of the development sought, the significant lateral separation distance and the serviced nature of the site setting, overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances

involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## 8.0 Recommendation

8.1. I recommend that permission be **refused**.

## 9.0 Reasons and Considerations

1. It is considered that the proposed advertising illuminated display panel sign would cause distraction to motorists travelling east bound on the Naas Road and would, therefore, endanger public safety by reason of traffic hazard, having regard to the fact that the sign would be positioned so that it would be highly visible from its east bound two traffic lanes, a bus lane, a cycle lane and pedestrian footpath in both directions, at a point where it would be in proximity to major junctions that result in substantial traffic movements. It is considered that the illuminated digital sign together with its size and changing nature of its displays at this location would be likely to distract drivers on this heavily trafficked regional route and would thereby endanger public safety by reason of traffic hazard. It is also considered that the proposed development is not a type of development that is generally deemed permissible at this location and the proposed development does not comply with Section 13.4.7 and Table 3.19 of the South Dublin County Development Plan, 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector

28<sup>th</sup> day of October, 2022.