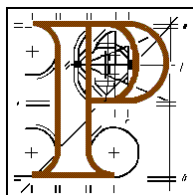


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2006

Fingal County

Planning Register Reference Number: F04A/1755

An Bord Pleanála Reference Number: PL 06F.217429

APPEAL by Joseph Brady and others care of “Cramford”, Clochran, Swords, County Dublin and by Dublin Airport Authority plc care of RPS Planning and Environment of Block E, Fifth Floor, Iveagh Court, Harcourt Road, Dublin and by others against the decision made on the 12th day of April, 2006 by Fingal County Council to grant subject to conditions a permission to the said Dublin Airport Authority plc in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Permission to construct on airport lands, a runway, 3,110 metres in length and 75 metres in width. The permission sought to include all associated taxiways, associated road works including internal road network, substations, navigational equipment, equipment enclosures, security fencing, drainage, ducting, lighting, services diversions, landscaping and all associated site development works including the demolition of an existing derelict house and associated outbuildings, the relocation of the Forrest Tavern monument; the removal of a halting site including the demolition of any structure whether temporary or permanent on that site which is currently leased from the applicant. The road works include the realignment of an 800 metre section of the Forrest Little Road; the rerouting of a 700 metre section of the Naul Road (R108) and a 200 metre section of the Dunbro Lane and replacement of these latter roads with a new two kilometre long road (7.5 metres wide carriageway) running in an east-west direction connecting to the Saint Margaret's Bypass at a new junction. The proposed duration of this permission is 10 years. The application also sought to demolish the existing runway 11-29 (1,357 metres in length and 61 metres in width) and the relocation of an engine testing area from its position north of runway 11-29 to apron located in the vicinity of the existing fire station, near the centre of the airfield. The development is located on lands of approximately 261 hectares in the townlands of Millhead, Kingstown, Dunbro, Barberstown, Pickardstown, Forrest Great, Forrest Little, Cloghran, Collinstown, Corballis, Rock and Huntstown, north and north-west of the airport terminal building.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to National Policy as set out in –

- (a) The National Development Plan, 2007-2011,
- (b) The National Spatial Strategy, 2002-2020,
- (c) Transport 21, 2006-2015,

which provide for expansion of infrastructural capacity and enhancement of the level of service at Dublin Airport because of its international gateway status, and which provide for investment priority for an upgraded public transport system and an improved road network to serve Dublin Airport, and

also having regard to -

- (d) The Regional Planning Guidelines for the Greater Dublin Area, 2004-2016,
- (e) Dublin Transportation Office Strategy: Platform for Change, 2000-2016,
- (f) Fingal County Development Plan, 2005-2011, and previous County Development Plans where it has been an objective since 1972 to provide an east-west runway at this location,
- (g) Dublin Airport Local Area Plan, 2006,

it is considered that the proposed development is necessary to meet the foreseeable need for aviation travel at Dublin Airport and to provide for the safe expansion of air traffic at the airport. It is further considered that, subject to the mitigation measures proposed and the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, would not present an unacceptable risk of water or air pollution, would not be prejudicial to public health due to noise impacts or otherwise and would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that sufficient information had been submitted in the Environmental Impact Statement, in further information submitted both to the planning authority and the Board and at the oral hearing to enable it to make an assessment of the significant impacts of the proposed development on the environment and its acceptability in terms of proper planning and sustainable development. The Board considered that in overall terms, the inconsistencies or deficiencies in information referred to by the Inspector were not so significant as to warrant a refusal of permission and could be addressed by way of condition. In particular, the Board was satisfied, on the basis of the information submitted and the conditions attached, and, having regard to the fact that there are no planning restrictions on the current operation of the airport runways, that -

- (1) there would be no significant deterioration in noise conditions at night time in the vicinity of the airport due to the proposed Option 7b operating mode for the runways (non-use of new runway and of cross runway at night) and the restriction on night time aircraft movements by way of condition,
- (2) in relation to day time noise, there would be some improvements relative to current or future noise impacts with the existing runway system to be offset against disimprovements in other areas/respects and the net effects would not be significant in terms of public health and safety such as to warrant a refusal of permission,
- (3) in relation to schools affected (including pre-school facilities), the mitigation measures proposed, reinforced by conditions and monitoring would ensure that a suitable noise environment can be maintained within classrooms and school buildings generally.

In coming to the above decision, the Board noted that, in addition to planning controls, Dublin Airport would in the future be subject to the new noise control regime introduced under the EU Environmental Noise Directive 2002/49/EC and the Environmental Noise Regulations, 2006.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars and the Environmental Impact Statement lodged with the application as amended by the further plans and particulars received by the planning authority on the 9th day of August, 2005, including the Environmental Impact Statement Addendum, and the 3rd day of March, 2006 and received by An Bord Pleanála on the 30th day of August, 2006, the 5th day of March, 2007 and in the oral hearing, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. This permission is for a period of 10 years from the date of this order.

Reason: In the interest of clarity.

3. On completion of construction of the runway hereby permitted, the runways at the airport shall be operated in accordance with the mode of operation – Option 7b – as detailed in the Environmental Impact Statement Addendum, Section 16 as received by the planning authority on the 9th day of August, 2005 and shall provide that -

- (a) the parallel runways (10R-28L and 10L-28R) shall be used in preference to the cross runway, 16-34,
- (b) when winds are westerly, Runway 28L shall be preferred for arriving aircraft. Either Runway 28L or 28R shall be used for departing aircraft as determined by air traffic control,
- (c) when winds are easterly, either Runway 10L or 10R as determined by air traffic control shall be preferred for arriving aircraft. Runway 10R shall be preferred for departing aircraft, and
- (d) Runway 10L-28R shall not be used for take-off or landing between 2300 hours and 0700 hours,

except in cases of safety, maintenance considerations, exceptional air traffic conditions, adverse weather, technical faults in air traffic control systems or declared emergencies at other airports.

Reason: In the interest of clarity and to ensure the operation of the runways in accordance with the mitigation measures set out in the Environmental Impact Statement in the interest of the protection of the amenities of the surrounding area.

4. The crosswind runway (16-34) shall be restricted to essential occasional use on completion of the new runway in accordance with Objective DA03 of the Fingal County Development Plan, 2005-2011. 'Essential' use shall be interpreted as use when required by international regulations for safety reasons.

Reason: In the interest of public safety, residential amenity and the proper planning and sustainable development of the area.

5. On completion of construction of the runway hereby permitted, the average number of night time aircraft movements at the airport shall not exceed 65/night (between 2300 hours and 0700 hours) when measured over the 92 day modelling period as set out in the reply to the further information request received by An Bord Pleanála on the 5th day of March, 2007.

Reason: To control the frequency of night flights at the airport so as to protect residential amenity having regard to the information submitted concerning future night time use of the existing parallel runway.

6. Prior to commencement of development, a scheme for the voluntary noise insulation of schools shall be submitted to and agreed in writing by the planning authority (in consultation with the Department of Education and Science). The scheme shall include all schools and registered pre-schools predicted to fall within the contour of 60 dB LAeq 16 hours within twelve months of the planned opening of the runway to use and, in any event, shall include Saint Margaret's School, Portmarnock Community School, Saint Nicholas of Myra, River Meade and Malahide Road schools. The scheme shall be designed and provided so as to ensure that maximum noise limits within the classrooms and school buildings generally shall not exceed 45 dB LAeq 8 hours (a typical school day). A system monitoring the effectiveness of the operation of the scheme for each school shall be agreed with the planning authority and the results of such monitoring shall be made available to the public by the planning authority.

Reason: To protect the amenities of schools in the area.

7. Prior to commencement of development, a scheme for the voluntary noise insulation of existing dwellings shall be submitted to and agreed in writing by the planning authority. The scheme shall include all dwellings predicted to fall within the contour of 63 dB LAeq 16 hours within 12 months of the planned opening of the runway for use. The scheme shall include for a review every two years of the dwellings eligible for insulation.

Reason: In the interest of residential amenity.

8. The runway hereby permitted shall not be brought into use until noise insulation approved under conditions numbers 6 and 7 above has been installed in all cases where a voluntary offer has been accepted within the time limit of the scheme.

Reason: In the interest of the amenities of residences and schools in the area.

9. Prior to commencement of development, a scheme for the voluntary purchase of dwellings shall be submitted to and agreed in writing by the planning authority. The scheme shall include all dwellings predicted to fall within the contour of 69 dB LAeq 16 hours within twelve months of the planned opening of the runway for use. Prior to the commencement of operation of the runway, an offer of purchase in accordance with the agreed scheme shall have been made to all dwellings coming within the scope of the scheme and such offer shall remain open for a period of 12 months from the commencement of use of the runway.

Reason: In the interest of residential amenity.

10. Noise and flight track monitoring shall be operated at all times as detailed in the Environmental Impact Statement Addendum received by the planning authority on the 9th day of August, 2005 and in accordance with the recommendations of ECAC.CEAC.Doc 29. An annual report on noise contours shall be submitted to the planning authority. A noise and flight track monitoring report shall be submitted to the planning authority on a quarterly basis and shall be made available for public inspection. The results of the noise and flight track monitoring shall be used to re-evaluate noise impacts and the application of mitigation measures, including (a) the noise insulation scheme (including residences and schools) and (b) the property buy-out scheme, biannually.

Reason: To protect the amenities of the area and to ensure ongoing monitoring and verification of the proposed noise mitigation measures.

11. Prior to commencement of construction of the new runway, aircraft engine testing at the northern end of the airfield shall cease and shall be relocated away from populated neighbouring areas to a sound-controlled area in accordance with the objectives of the Dublin Airport Local Area Plan, 2006.

Reason: In the interest of residential amenity.

12. Prior to commencement of development, the developer shall submit to the planning authority for written agreement a comprehensive environmental protection plan to minimise the impacts of the construction processes. The plan shall provide, inter alia, for:
- (a) provision for loading and unloading of materials,
 - (b) storage of plant, materials, operatives' vehicles,
 - (c) provision of temporary offices and car parking,
 - (d) temporary site access,
 - (e) identification of the main routes to be used by construction traffic having regard to the location of residences in the area and the standard of roads to be used (Option B as outlined in the Environmental Impact Statement shall not be used),
 - (f) a survey of the road and pavement conditions affected by the construction route,
 - (g) measures to minimise dust and spillages or deposits of clay or other materials along the route. Such measures should include wheel washes and other cleaning mechanisms,
 - (h) a waste management plan to ensure the minimisation of waste, re-use or recycling of materials, and
 - (i) access to the site, minimising construction access during the AM and PM peak periods.

Reason: In the interest of traffic safety and amenity.

13. Further details of the layout and access arrangements, including consideration of alternative locations, to all existing and proposed viewing areas affected by the proposed runway shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of traffic safety and amenity.

14. Details of the relocation of the Forrest Tavern monument shall be agreed with the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

15. Prior to commencement of development, the developer shall submit to the planning authority for written agreement details of the following:
- (a) full design details, including specification, of the realigned and re-routed roads,
 - (b) details of Forrest Little Road/Forrest Road junction,
 - (c) revised details of the new R108/Saint Margaret's Bypass junction, and
 - (d) details of the proposed spur to the north-west of the R108/Saint Margaret's Bypass junction, illustrated in figure number 2 of the Scott Wilson Highways Report received by the planning authority on the 9th day of August, 2005.

Prior to the submission of these details, the developer shall consult with Fingal County Council Transportation Department.

Reason: In the interest of traffic safety.

16. The developer shall consult and liaise with the planning authority to facilitate the planning, design and implementation of the proposed Western Access indicated in the Dublin Airport Local Area Plan, 2006. The lands within the ownership of the applicant shall be made available to the planning authority when required to do so to facilitate the delivery of this road objective.

Reason: In the interest of the orderly development of the airport and the proper planning and sustainable development of the area.

17. The developer shall consult and liaise with the Railway Procurement Agency to facilitate the planning, design and implementation of the Metro North – Lissenhall, Swords to Fingal County Boundary at Ballymun through the lands within the ownership of the applicant. The required lands shall be made available to the Railway Procurement Agency when required to do so to facilitate this piece of public transport infrastructure.

Reason: In the interest of orderly development and the proper planning and sustainable development of the area.

18. Full staged road safety audits shall be carried out for all road infrastructure works and for the viewing areas and shall be submitted to the planning authority for agreement. The road safety audits shall be compliant with the National Roads Authority Road Safety Audit Guidelines (DMRB Volume 5 – Section 2) and shall be submitted for compliance at the appropriate stages of development.

Reason: In the interest of traffic safety.

19. All necessary procedures to extinguish public rights of way shall have been completed before commencement of the runway construction. The extinguishments of these rights of way shall not be enforced and no stopping off of access shall be allowed until the proposed alternative routes are in place.

Reason: In the interest of the proper planning and sustainable development of the area.

20. Surface water from the proposed development shall be drained in accordance with the proposals outlined in the planning application and the Environmental Impact Statement. Full details of the design, construction, operation and monitoring of the surface water attenuation, treatment and disposal system shall be agreed in writing with the planning authority, in consultation with the Eastern Regional Fisheries Board, prior to commencement of development.

Reason: In the interest of public health, prevention of flooding and limiting the risk of pollution of receiving waters.

21. A monitoring regime for the monitoring of surface water discharged to streams and the public sewer shall be agreed in writing with the planning authority and shall be fully operational prior to the completion of construction of the runway. Monitoring results shall be submitted to the planning authority on a quarterly basis and shall be made available for public inspection on the Dublin Airport Authority's website.

Reason: In the interest of public health and to ensure continuous monitoring of surface water discharges from the site.

22. The Dublin Airport Authority shall monitor air pollutant concentrations within the environs of Dublin Airport at locations to be agreed with the planning authority. The pollutants to be measured shall include nitrogen dioxide, sulphur dioxide, benzene, carbon monoxide, particulates PM₁₀ and ozone. The measurements shall be undertaken so that concentrations can be compared with compliance of the appropriate National Air Quality Standards. The monitoring network shall include both continuous sampling equipment and passive sampling methods for monitoring the air pollutant parameters. Results obtained from the air quality monitoring network shall be submitted to the planning authority on a quarterly basis, and displayed on the Dublin Airport Authority website. The frequency and pollutant parameters shall be reviewed on a yearly basis to ensure adequate monitoring.

Reason: To ensure adequate monitoring of emissions and air quality.

23. Commitments in relation to archaeology, ecology and landscape in Chapter 19, Sections 19.3, 19.4 and 19.5 of the Environmental Impact Statement as amended by the addendum to the Environmental Impact Statement shall be carried out in full. This shall include -

- (a) the programme of archaeological site investigation work, including any additional requirements of the Department of the Environment, Heritage and Local Government,
- (b) measures to be taken to mitigate impacts on fauna, including fauna protected by law such as badgers and bats,
- (c) measures to be taken to mitigate impacts on birds,
- (d) the provision of a compensatory eight hectare woodland together with the provision of three hectares of amenity lands on lands zoned for such use,
- (e) the provision of funding for a hedgerow survey of Fingal, and
- (f) the provision of funding for the restoration of the historic formal gardens in the Ward River Valley Regional Park.

Reason: To mitigate impacts on flora/fauna/habitats in the interest of the proper planning and sustainable development of the area.

24. The developer shall comply in full with the proposals submitted for ecological compensation habitats, that is, three hectares for landscape and eight hectares for ecological compensation. In addition, the applicant shall sponsor a study into the coverage and condition of hedgerows in Fingal and, as part of mitigation measures, shall make a financial contribution towards the survey/restoration of the historic formal gardens in the Ward River Valley Regional Park. Prior to commencement of development, the applicant shall submit to the planning authority for written agreement a detailed work specification, establishment programme, an ongoing maintenance programme and implementation timescale.

Reason: In the interest of the proper planning and sustainable development of the area.

25. A pre-construction survey of badgers on the site shall be submitted to the planning authority and the National Parks and Wildlife Service prior to commencement of development. The timing of all necessary measures in relation to badgers, such as removal of setts, which arise from the results of the survey shall be agreed in writing with the planning authority and the National Parks and Wildlife Service prior to commencement of development.

Reason: In the interest of the proper planning and sustainable development of the area.

26. The planning authority shall be notified in writing of the name of the bat specialist prior to commencement of development. The bat specialist shall be present when any buildings are being fully/partially demolished or when trees are being removed to ensure that all necessary measures are taken in relation to bats. In the event of bats being found located in buildings or trees, the National Parks and Wildlife Service and the Heritage Officer of the planning authority shall be immediately notified.

Reason: In the interest of the proper planning and sustainable development of the area.

27. Appropriate perimeter fencing shall be erected along the full perimeter of the Northern Parallel Runway to avoid driver distraction as well as to reduce light spillage between the runway and the public roadway. The detailed design of the proposed fencing shall be agreed with the planning authority prior to commencement of development.

Reason: In the interest of safety and the proper planning and sustainable development of the area.

28. A Community Liaison Group shall be established, involving representation of the Saint Margaret's Community, Fingal County Council and the Dublin Airport Authority. The composition of the committee and any variation thereof shall be subject to the prior agreement of the planning authority. The committee shall facilitate consultation with the existing community in accordance with the policies and objectives of the Fingal County Development Plan, 2005-2011 in relation to Saint Margaret's.

Reason: To provide for ongoing communication, dissemination of information and consultation with the local community affected by the proposed runway.

29. The developer shall facilitate the planning authority in the archaeological appraisal of the site and in preserving and recording or otherwise protecting archaeological materials or features which may exist within the site. In this regard, the developer shall:-

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

Prior to commencement of development, a report containing the results of the assessment shall be submitted to the planning authority. Arising from this assessment, the developer shall agree with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to the Board for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

30. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

31. The developer shall pay to the planning authority a financial contribution in respect of the Metro North – Lissenhall, Swords to Fingal County Boundary at Ballymun in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2007.