Our Ref: 06F.PC0212
P.A.Reg.Ref:

Your Ref:

An Bord Pleanála

Chief Executive
Fingal County Council
P.O. Box 174
Fingal County Hall
Main Street, Swords
Co. Dublin

6th January 2016

Re: Re-purposing of the former Flight Simulator Building for other aviation related uses e.g. aircraft maintenance and stores, and minor ancillary works to the adjacent TASC Building, Dublin Airport, Co. Dublin.

Dear Sir/Madam,

I have been asked by An Bord Pleanála to refer to the above mentioned pre-application consultation request.

Please be advised that following consideration of the issues raised in the above consultation and having regard to the scale and nature of the proposed development An Bord Pleanála has decided that the proposed development does not fall within one or more of the paragraphs specified in the condition contained in section 37A(2) of the Planning and Development Act, 2000, as amended. Accordingly any application for planning consent should be made to the local authority in accordance with the provisions of section 34 of the Planning and Development Act, 2000, as amended.

A copy of the documentation relating to the pre-application consultations between An Bord Pleanála and the prospective applicant will follow in due course.

Information is set out overleaf in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

If you have any queries in relation to the matter please contact the undersigned officer of the Board. Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Sinead McInerney
Executive Officer
Direct Line:01-8737295

Encls.

ADHOC/PC0212/01

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64 Marlborough Street,
Dublin 1.

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, **www.citizensinformation.ie.**

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.