

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Fingal County

Planning Register Reference Number: F15A/0265

An Bord Pleanála Reference Number: PL 06F.245989

APPEAL by Sabrina Joyce of 23 Portmarnock Crescent, Portmarnock, County Dublin and by Rossdon Limited care of McCutcheon Halley Walsh of 22/23 Pembroke Street Upper, Dublin and by others against the decision made on the 2nd day of December, 2015 by Fingal County Council to grant subject to conditions a permission to the said Rossdon Limited in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of a two-storey building including supermarket, two retail units, one café unit, two office units, lobby areas, circulation and services spaces, with a maximum height of circa 11.1 metres and with a gross floor area measuring circa 2,740 square metres. The proposed supermarket at first floor level includes ancillary off-license sales area, ancillary storage, staff and customer facilities and two office units with shared staff facilities. At ground floor level, proposals include two retail units and a café fronting onto Strand Road, and a new landscaped public space. Provision of surface level and undercroft car parking and bicycle parking, provision of vehicular and service access off Saint Lawrence O'Toole Avenue, boundary treatments, two pole-mounted and four wall-mounted internally-illuminated signs, signage zones, hard and soft landscaping, lighting, connections to drainage and water services and all ancillary developments works (including site clearance), all on a site measuring circa 0.38 hectares at 'Tin Church Site', Strand Road, Portmarnock, County Dublin, bounded by Saint Lawrence O'Toole Avenue (also known as Saint Anne's Square) to the south, Saint Brigid's Avenue to the east, and Church Avenue to the north as amended by the revised public notice received by the planning authority on the sixth day of November, 2015.

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 the fact that the land use zoning objective for the subject lands is TC, that is, to “Protect and enhance the special physical and social character of town and district centres and to provide and/or improve urban facilities” in the Fingal Development Plan 2011-2017, and that the development of a supermarket of less than 2500 square metres is acceptable in principle within the zoning objective for the area, to the identification of the subject site as an “Opportunity Site” in the Portmarnock Urban Centre Strategy, to its nature and scale, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential and visual amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board carried out a screening exercise in relation to potential impacts on nearby European sites, specifically the Baldoyle Bay Special Area of Conservation (Site Code 000199) and the Baldoyle Bay Special Protection Area (Site Code 004016), and having regard to the nature and scale of the proposed development, the nature of the receiving environment, the screening report submitted, the submissions on file and the report of the Inspector which the Board has adopted in relation to Appropriate Assessment, the Board concluded that, on the basis of the information available, the proposed development would not be likely to have a significant effect on any European site, either individually or in combinations with other plans and projects in view of the sites conservation objectives

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered the status of the site in the Fingal

Development Plan and the Portmarnock Urban Centre Strategy and determined that the proposed development as permitted by the planning authority would not result in a decline in the commercial vitality of the area and that the design of the proposed building, including its height and scale and incorporating a civic space, would be acceptable in the context of a central location within the village.

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 25th day of September, 2015 and on the 6th day of November, 2015, 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. The hours of trading shall be between 0800 hours and 2100 hours Monday to Saturday and between 1030 hours and 1900 hours on Sunday. Deliveries shall not take place outside of the hours of trading and shall take place within the confines of the site only.

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

3. Deliveries shall be carried out using commercial vehicles of maximum length 10 metres.

Reason: In the interest of traffic safety and residential amenity.

4. Details, including samples, of the materials, colours and textures of all the external finishes, including external glass, to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In this regard, samples shall be erected on site where required by the planning authority.

Reason: In the interest of the visual amenities of the area.

5. A 1.1 metre high boundary wall shall be provided on the northern boundary of the site with Saint Brigid's Avenue. Details of materials and finishes of this wall shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity and to ensure a satisfactory standard of development.

6. Public lighting on site, including light associated with signage, shall not cause excessive glare or distraction to road users or adjoining property owners. The level of illumination shall be reviewed at any time by the planning authority and any adjustments shall be made to the satisfaction of the planning authority at the developer's expense.

Reason: In the interest of residential amenity.

7. All car parking shall be clearly delineated on site and shall be available at all times as public car parking.

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

8. The development shall comply with the following requirements:
- (a) The proposed totem pole at the entrance adjoining Strand Road shall be omitted from the development and shall be replaced by the proposed "Low Level Signage" as set out in drawing entitled "Low Level Signage Detail" submitted to An Bord Pleanála with the appeal. Revised drawings showing compliance with this requirement shall be submitted to the planning authority for written agreement.
 - (b) Details including finishes and any proposal for illumination, of all first floor level signage on the front and side elevations as indicated on drawings numbers 03-01 and 03-02 (received on the 6th day of November, 2015) shall be submitted to, and agreed in writing with, the planning authority.
 - (c) Details of finishes and materials to the shopfronts, including signage, associated with the café, retail unit and offices, shall be submitted to, and agreed in writing with, the planning authority.
 - (d) The specifications and finishes of the landscaping elements, paving, and benches, in addition to the general positioning of benches/bicycle racks within the public space at the entrance to the building, shall comply with the details as listed and illustrated on drawings numbers 15-405-PD-01 and 15-405-PD-03, unless otherwise agreed in writing with the planning authority.
 - (e) No additional advertisement, advertisement structure, freestanding sign, or other projecting elements including flagpoles or banners, shall be erected or displayed on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of the protection of the visual amenities of the area.

9. No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

10. The developer shall provide for a piece of public art, the detailed design of which shall be submitted to the planning authority for written agreement.

Reason: In the interest of visual amenity and to comply with objective UD11 as set out in the Fingal County Development Plan 2011-2017.

11. Replacement street tree planting shall take place on Saint Lawrence O'Toole Avenue in order to compensate for the loss of trees. On preparing the plan and specifications, the applicant shall adhere to Objectives OS28 to OS34 of the Fingal Development Plan 2011-2017 that specifically relates to trees. All trees located in grass verges shall be planted in integrated constructed tree pits. Details of these constructed tree pits shall be submitted to and agreed in writing with Fingal County Council as part of a landscape masterplan, which shall also address planting within the rest of the site. The applicant shall consult with the parks and green infrastructure division to agree tree type selection and constructed tree pit design, details of which shall be submitted for the written agreement of the planning authority prior to the commencement of development. The developer shall also carry out the maintenance on these replacement street trees for a period of two years.

Reason: In the interest of visual amenity.

12. 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.

13. No items associated with refrigeration ventilation or air conditioning apart from the low noise fridge condenser units shall be erected or placed on any external surface without the prior written agreement of the planning authority.

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

14. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins.

Reason: In the interest of visual amenity.

15. 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

16. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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 amenities of property in the vicinity.

17. The developer shall comply with the following requirements of the planning authority:

- (a) Mobility Management Plan shall be submitted for the written agreement of the planning authority.
- (b) A stage 2 Road Safety Audit shall be carried out and its recommendations adopted subject to the written agreement of the planning authority.
- (c) All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer's expense.
- (d) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900 millimetres which would interfere or obstruct (or could obstruct over time) the required visibility envelopes at the vehicular entrance to the development.

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

18. Water supply and drainage arrangements, including the 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.

19. 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.

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

Dated this day of 2016.