

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

South Dublin County

Planning Register Reference Number: SD15A/0293

An Bord Pleanála Reference Number: PL 06S.246230

APPEAL by David McMunn of 15 Stonepark Orchard, Rathfarnham, Dublin against the decision made on the 1st day of February, 2016 by South Dublin County Council to grant subject to conditions a permission to Sirio Property Company Limited care of Bernard Fitzpatrick and Associates of 18 South Bank, Crosses Green, Cork in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Development consisting of (1) provision of new two-storey forecourt building with 100 square metres retail shop, 91.53 square metres deli café, 24.29 square metres deli café food prep area, offices, stores and toilet facilities, (2) sale of specially prepared hot and cold food for consumption both on and off the premises from the deli café area, (3) new forecourt layout including canopy, fuel pumps, underground tanks, jet wash, carwash water pump room and bin compound, (4) relocation of existing site entrance and exit crossovers, (5) 157.08 square metres first floor office unit, (6) ancillary signage, both illuminated and non-illuminated and (7) all associated site works at the Former Esso Priory Service Station, Nutgrove Avenue, Rathfarnham, Dublin.

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 zoning provisions of the South Dublin County Development Plan, to the most recent use established on the site and the nature, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not constitute a traffic hazard, would not seriously injure the residential amenities of the area and would, therefore, 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 decided that, subject to compliance with the conditions attached below, and the restricted operating hours, the proposed development would not seriously injure the residential amenities of the area. The Board noted the concerns expressed by the Inspector with respect to traffic hazard but considered that these matters could be overcome by means of the section 48(2)(c) special contribution condition attached.

Appropriate Assessment

The Board noted the Appropriate Assessment Screening determination carried out by the Inspector. The Board did not concur with the Inspector's determination. The Board was satisfied, having regard to the nature, location and scale of the subject development, and the proposal set out in the applicant's detailed surface water design proposals, which would constitute normal construction and operational practice, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the North Dublin Bay Special Area of Conservation (Site Code 000206) and the South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code 004024), or on any other European sites, in view of the site's conservation objectives.

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 4th day of January 2016, 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 opening of the entire development shall be restricted to 0630 hours to 2230 hours Monday to Sunday (including Bank holidays).

Reason: In the interest of residential amenity.

3. The quantum of office space shall be limited to a maximum of 100 square metres of the overall floor area of the subject unit, unless a separate planning permission has been granted by the planning authority or by An Bord Pleanála on appeal.

Reason: To prevent the proliferation of employment intensive development, the intensification of ancillary office space and to ensure that the development does not generate additional demand for car parking.

4. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the canopy, on the forecourt building or anywhere within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

5. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

6. 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.

7. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of the bus stop and pedestrian crossing relocation and associated site works. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

Dated this day of 2016.