

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## South Dublin County

**Planning Register Reference Number: SD16A/0107**

An Bord Pleanála Reference Number: PL 06S.246792

**APPEAL** by Frank Towey care of Doyle Kent Planning Partnership Limited of 71 Carysfort Avenue, Blackrock, County Dublin against the decision made on the 27<sup>th</sup> day of May, 2016 by South Dublin County Council to grant subject to conditions a permission to Regal Estates care of Manahan Planners of 38 Dawson Street, Dublin in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Construction of four number detached single storey restaurant/café units with drive-thru' facilities (Block 1 - 298 square metres, Block 2 - 270 square metres, Block 3 - 185 square metres and Block 4 - 195 square metres) with attached and freestanding signage, served by on-grade car parking for 79 number cars (nine number of which shall be electric-car spaces) and 11 number bicycle spaces, ESB substation and switch room, landscaping, centralised pedestrian canopy/pergola and associated site works and drainage, all at site of 6,075 square metres. The vehicular entrance will be from the Estate Road E. It is also proposed to provide a dedicated crossing for pedestrians and cyclists on Estate Road E, all at the junction of Bothár na Life and Estate Road 'E', (east of Arc Café and Bar and car park, west of Liffey Valley Motor Mall), Clondalkin, 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 “MRC- Major Retail Centre” zoning objective for the site in the South Dublin County Development Plan 2016-2022 which seeks to protect, improve and provide for the future development of a major retail centre and where restaurants/cafes are acceptable in principle, to the design, nature and extent of the development proposed and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, would comprise an acceptable design, density of development and use of the lands, and would not set an undesirable precedent for development in the area. The proposed development 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 had regard to the pattern of development in the area and did not consider that the proposal would seriously injure the visual or residential amenities of the area or represent an underutilisation of this infill site. The Board generally concurred with the planning authority in considering the urban design, visual impact and landscaping to be of an acceptable standard. In respect of access and car parking, the Board also concurred with the views of the planning authority’s Road’s Department.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with, the planning authority:
  - (a) a car parking management plan with measures to prevent long term car parking by non-customers,
  - (b) a toucan crossing shall be provided on the eastern arm of Shancastle roundabout and a zebra crossing plus platform on the northern arm. A new pedestrian entrance and footpath shall be provided at the zebra crossing to the restaurants, and
  - (c) a construction traffic management plan.

**Reason:** In the interests of traffic and pedestrian safety.

3. Details including samples of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. Water supply and drainage arrangements, including the attenuation and 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.

5. The landscaping scheme shown on drawing number PP[ga]L01 as submitted to the planning authority on the 5<sup>th</sup> day of April, 2016 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of three years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

6. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with, the planning authority:
- (a) details of proposed signage including dimensions, material type, lettering/logo, colour and type of illumination. Internal illumination is not acceptable,
  - (b) the internally illuminated pylon type sign proposed in the grass margin to the south of the site shall be omitted, and
  - (c) no advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on the buildings or within the curtilage of the site in such a manner as to be visible from outside the buildings, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

7. Security roller shutters, if installed, shall be recessed behind the 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.

8. No further structures, plant or antennae shall be erected on the roof of the proposed buildings with a prior grant of planning permission.

**Reason:** In the interest of visual amenity.

9. 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 and refuse storage facilities.

**Reason:** In the interest of visual amenity.

10. The developer shall control odour emissions from the premises in accordance with measures including extract duct details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to protect the amenities of the area.

11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

12. 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.

13. (a) Noise due to the normal operation of the proposed development, expressed as  $LA_{eq}$  over 15 minutes at the façade of a noise sensitive location, shall not exceed the daytime background level, that is, 0700 to 1900 hours by more than 10 dB(A) and shall not exceed the background level for evening and night time, that is, 1900 to 0700 hours. Clearly audible and impulsive tones at noise sensitive locations during evening and night shall be avoided irrespective of the noise level.
- (b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any residence, adjoining premises or public place in the vicinity.
- (c) All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators as necessary to ensure that the noise level as expressed as  $LA_{eq}$  over 15 minutes at one metre from the façade of any noise sensitive location does not exceed the background level by more than 10 dB(A) for daytime and shall not exceed the background level for evening and night time.

**Reason:** To protect the amenities of property in the vicinity of the site.

14. 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.

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

**Dated this            day of            2016.**