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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F17A/0325**

**Appeal** by Rathbeale Road Residents' Association care of Maeve Slattery of "Littledale", 55A Rathbeale Road, Swords, County Dublin against the decision made on the 26<sup>th</sup> day of January, 2018 by Fingal County Council to grant subject to conditions a permission to J.C. Savage Supermarket Limited care of Hughes Planning and Development Consultants, The Mash House, Distillery Road, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** (i) Demolition of existing single storey canopy/pedestrian walkway and brick planter box to front of existing library building; (ii) construction of a contemporary flat-roofed single storey extension with four number roof lights to front (south-west) of existing library building to provide a café/restaurant unit with outdoor seating area with retractable awning and associated illuminated backlit signage, and new entrance lobby to existing supermarket and library building; (iii) two number entrance canopies at the main entrances to existing supermarket on north-western elevation and south-eastern elevation (adjoining proposed café/restaurant); (iv) provision of new emergency exit from existing library building on side (south-eastern

elevation) and escape route through existing service yard; (v) provision of replacement illuminated backlit fascia signage on (side) north-western elevation of existing building; (vi) removal of existing six metres in height internally illuminated totem sign (approved under register reference F12A/0088) on south-western section of site and provision of one number replacement internally illuminated totem sign six metres in height; (vii) reconfiguration, resurfacing and upgrade of existing surface car park including provision of pedestrian routes and traffic calming measures (viii); the development also includes all internal modifications, toilets, staff facilities, external trolley bays, bollards and all ancillary drainage and landscaping works associated with the development, at Swords Shopping Centre, Rathbeale Road, Swords, County 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 provisions of the Fingal County Development Plan 2017-2023, to the relevant planning history of the application site and to the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below (including modifications to the proposed signage), the proposed development, which is a permitted use within the Local Centre land use zoning, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would not seriously injure the visual amenities of the area, and would be in acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 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 22<sup>nd</sup> day of December, 2017, 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 proposed development shall be amended as follows:-
- (a) The timber panel structure and all associated signage, proposed to be located above the proposed new entrance canopy on the western elevation, shall be completely omitted.
  - (b) The proposed totem sign shall not exceed six metres in height above ground level and shall not exceed three metres in width at its widest point. The internal illumination of the totem sign shall be re-specified to illumine the featured names and motifs only, and the entire sign shall not be internally, nor externally, illuminated.
  - (c) The proposed illuminated backlit JC circle on the exterior of the proposed café/restaurant shall not project forward of the line of the façade of the wood cladding by more than 150 millimetres.
  - (d) No signage of any kind shall be placed on, or associated with, the proposed awnings.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual amenity, and to prevent advertising clutter, as the proposed totem sign would be larger than that previously permitted and as proposed would be visually obtrusive, and as the proposed panel and signage over the western entrance canopy, by reason of its scale and location at a high level, would be visually unacceptable.

3. The six number existing flag poles and their associated signage shall be permanently removed from the site within three months of the erection of the totem sign or the provision of the proposed café/restaurant, whichever is the sooner.

**Reason:** In order to limit the extent of signage along the road frontage of the overall development, and as the proposed additional signage envisaged by the proposed development is only acceptable if existing signage is removed.

4. The proposed café/restaurant shall not be used for the sale of hot food for consumption off the premises (that is, a take-away use), whether or not such use would represent an ancillary use to the principal use as a café/restaurant.

**Reason:** In the interest of clarity, and in order to safeguard the amenities of adjoining residential properties.

5. Prior to the commencement of development details of the following shall be submitted to, and agreed in writing with, the planning authority:
  - (a) Details of the materials, colours and textures of the external finishes to the proposed building.
  - (b) Details relative to the construction works of the proposed café/restaurant relative to its interface with the public library.

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

6. The opening hours of the café/restaurant shall not exceed the following:-

Monday, Tuesday and Saturday 0800 to 2000

Wednesday to Friday 0800 to 2100

Sunday and Bank Holidays 1100 to 1800

**Reason:** In the interests of clarity and of residential amenity.

7. The noise level from the proposed development during the operational phase shall not exceed 55 dB(A) rated sound level at the nearest noise sensitive location (residential property) between 0800 and 2000 hours, Monday to Saturday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

8. No deliveries or refuse collections shall be taken at or dispatched from the overall site outside the hours of 0800 to 2000 hours, Monday to Saturdays, and 1000 to 2000 hours on Sundays or public holidays.

**Reason:** To protect the residential amenities of the area.

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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the proposed café/restaurant or on any part of the overall building, nor within the overall site, other than the signage specifically permitted by this order (as modified by condition numbers 2 and 3), unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity and orderly development, and to permit the planning authority to assess any such development through the statutory planning process.

11. All signage hereby permitted shall not be illuminated outside of the opening hours of the main supermarket and all lighting associated with the café/restaurant shall not be illuminated other than during the opening hours as specified in condition number 6 of this order.

**Reason:** In the interests of visual amenity and orderly development.

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

13. 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 and to ensure a proper standard of development.

14. All public services to the proposed development, including electrical, telephone cables and associated equipment shall be located underground throughout the entire site.

**Reason:** In the interest of 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. 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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**Philip Jones**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2018.**