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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F19A/0163**

**Appeal** by Pauline Doherty of 56 Bremore Castle, Balbriggan, County Dublin and by Tony Murphy care of KT Designs of Unit 12, BEaT Centre, Stephenstown Industrial Estate, Balbriggan, County Dublin against the decision made on the 11<sup>th</sup> day of June, 2019 by Fingal County Council to grant subject to conditions a permission to SDB Leisure Limited care of Harmon McCarthy Projects Limited of 5 Baldara Court, Ashbourne, County Meath in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Material change of use from existing retail unit to amusement arcade including all associated site works at Unit 16, Block C, Castlemill Shopping Centre, Balbriggan, 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 Fingal Development Plan 2017 - 2023 and the applicable Local Centre 'LC' zoning objective for the area, the Board considered that the proposed development does not unduly impact on the amenity of the surrounding area or of neighbouring property. It is considered, therefore, that the proposed development would, subject to compliance with the conditions set out below, be in accordance with the development plan policy, and with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted the zoning, modest size of the unit and the hours of operation in combination with the range of the other existing uses within the local centre and decided that the proposed change of use was acceptable.

## 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. No change from this permitted use or increase in the area to be used shall take place, unless authorised by a further grant of planning permission.

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

3. The amusement arcade shall only operate between 1000 hours and 2200 hours, Monday to Sunday inclusive.

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

4. The following requirements in relation to environmental health shall be complied with in full:

- (i) Noise due to the normal operation of the development hereby permitted shall not cause a noise nuisance to nearby noise sensitive locations and shall not exceed the background level by 10 dB(A) or more or exceed NG4 limits whichever is lesser.

Daytime (07:00 to 19:00 hrs) - 55dB

Evening (19:00 to 23:00 hrs) - 50dB

Night time (23:00 to 07:00 hrs) - 45dB

- measured from the nearest noise sensitive locations.

- (ii) The development shall be operated so that there will be no emissions of malodours, gas, dust, fumes or other deleterious materials, no noise vibration on site as would give reasonable cause for annoyance to any person in any residence, adjoining the unit or any public place in the vicinity.

**Reason:** In the interest of public health.

5. Windows shall be clear and devoid of window graphics. Any roller shutters, roller shutter boxes or other security shuttering for the premises shall be of the open grille type, dark coloured and installed internally behind the line of glazing.

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

6. No additional advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

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

7. No music or other amplified sound shall be broadcast externally. Noise emanating from the premises shall be such as not to cause nuisance to the occupants of adjacent properties and users of the public road.

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

8. All necessary measures shall be taken by the developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface which shall be at the developer's expense. The developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of the planning authority or pay the planning authority the cost of making good any such damage upon issue of such a requirement by the planning authority.

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

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

**Dated this            day of            2019**