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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P19/155**

**Appeal** by Paul Hickey on behalf of the Hickey Families care of Frank Ross of Blossom Hill, Kilcornan, County Limerick against the decision made on the 21<sup>st</sup> day of August, 2019 by Clare County Council to grant subject to conditions a permission to Currana Investments Limited care of Maughan and Associates of 93 Upper Georges Street, Dún Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of three number mixed use commercial buildings (total floor area 4,450 square metres) comprising industrial, light industrial, storage, warehousing uses with ancillary office accommodation, new site entrance and exit, 82 number on-site parking spaces and connection to existing utilities together with ancillary site development works all at Smithstown Road, Smithstown, Shannon, County Clare. The proposed development was revised by further public notices received by the planning authority on the 25th day of July, 2019.

## **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 pattern of development in the area, to the relevant provisions of the Shannon Local Area Plan 2012-2018 (as amended), to the scale and nature of the proposed development, and the nature of the use proposed, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property, including residential property, in the vicinity, would be acceptable in terms of pedestrian and traffic safety, and 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 received by the planning authority on the 14<sup>th</sup> day of March, 2019, the 4<sup>th</sup> day of July, 2019 and the 31<sup>st</sup> day of July, 2019, 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. (a) The development hereby permitted shall be used for industrial, light industrial, storage and warehousing purposes only, with ancillary office accommodation, as described in the planning application documentation and shall not involve any retailing or retail warehousing.
- (b) Delivery hours for the proposed development shall only be from 0800 to 1800 hours daily.

**Reason:** In the interest of clarity.

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

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

4. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-
  - (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be one hour.
  - (ii) An LAeqT value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007 "Acoustics - Description and Measurement of Environmental Noise".

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

5. No signage, advertisement or advertisement structure shall be erected or displayed on the 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.

6. 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 residential amenities of property in the vicinity.

7. Comprehensive details of the proposed lighting to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The lighting proposal shall include cowling to ensure no light overspill onto the adjoining residential property.

**Reason:** In the interest of public safety and visual amenity.

8. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

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

9. Water supply and drainage arrangements, including the disposal of uncontaminated surface water, shall comply with the requirements of the planning authority for such works and services and no surface water shall discharge onto adjoining properties or the public road.

**Reason:** In the interest of public health and to ensure a proper standard of development.

10. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained (southern, eastern and western boundary) shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No works shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

11. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

13. 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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**Chris McGarry**

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

**Dated this            day of            2020.**