



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 4011/19

Appeal by Mohammad Nassir Mushtaq care of Plantech Building Design and Technical Drawing Services of Unit 721, NW Business Park, Ballycoolin, Dublin against the decision made on the 11th day of November, 2019 by Dublin City Council in relation to an application by the said Mohammad Nasir Mushtaq for permission for 1. internal alterations and change of use from a car showroom to a Gala retail shop with a hot and cold deli counter together with a new shop front and external signage, proposed twenty four hour opening times Monday to Sunday; 2. internal alterations and change of use from a car service bay to a Four Star Pizza restaurant (incorporating internal and external seating areas), take-away and delivery use together with a new shop front and external signage, proposed opening hours: Monday to Friday and Sunday - 1200 to 0000 hours, Saturday - 1200 to 0100 hours; and 3. all structural, drainage and associated site works to be implemented; all at Top Oil Service Station, McKee Avenue, Finglas, Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for 1. internal alterations and change of use from a car showroom to a Gala retail shop with a hot and cold deli counter together with a new shop front and external signage, proposed twenty four hour opening times Monday to Sunday. and to refuse permission for 2. internal alterations and change of use from a car service bay to a Four Star Pizza

restaurant (incorporating internal and external seating areas), take-away and delivery use together with a new shop front and external signage, proposed opening hours: Monday to Friday and Sunday - 1200 to 0000 hours, Saturday - 1200 to 0100 hours).

Decision

GRANT permission for 1. internal alterations and change of use from a car showroom to a Gala retail shop with a hot and cold deli counter together with a new shop front and external signage, proposed twenty four hour opening times Monday to Sunday. in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for 2. internal alterations and change of use from a car service bay to a Four Star Pizza restaurant (incorporating internal and external seating areas), take-away and delivery use together with a new shop front and external signage, proposed opening hours: Monday to Friday and Sunday - 1200 to 0000 hours, Saturday - 1200 to 0100 hours based on the reasons and considerations marked (2) under.

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 (1)

Having regard to the zoning objectives for the area and the pattern of development in the area, 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 in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 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. This permission excludes the proposed change of use from car service bay to a Four Star Pizza restaurant incorporating internal and external seating areas), take away and delivery use together with new shop front and external signage. The maximum floor area of the permitted shop shall be 80.7 square metres as per the drawing titled "Existing and proposed floor plans" (drawing number 001) submitted with the application.

Reason: In the interest of clarity

3. The premises shall be used as a shop with ancillary hot and cold deli counter and for no other use within Part 4 of Schedule 2 to the Planning and Development Regulations 2001, as amended, without a prior grant of planning permission.

Reason: To clarify the scope of the permission and to protect the amenities of the area.

4. The permitted development shall remain closed and shall not trade outside of the following hours: -
 - (a) 0700 hours to 2200 hours Monday to Saturday, and
 - (b) 0800 hours to 2200 hours on Sundays,unless otherwise agreed in writing with the planning authority.

Reason: To protect the residential amenities of the area.

5. Details of the signage and lighting system for the 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.

6. A waste bin shall be provided outside of the premises during the hours of business. Details of cleaning/litter management measures shall be submitted to, and agreed with, the planning authority prior to commencement of development.

Reason: To protect the visual and residential amenities of the area.

7. The development shall comply and be carried out in accordance with the following requirements relating to roads and access. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development: -
- (a) delineation of all car parking spaces to serve the development on lands within the control of the applicant,
 - (b) proposals for the operation of a one-way entry and exit system for the site,
 - (c) details of boundary treatment along the eastern boundary of the site to McKee Avenue to separate the site from the public footpath, and
 - (d) details of the location of the proposed delivery area for the site.

Reason: In the interests of traffic and pedestrian safety.

8. Water supply and drainage arrangements, including the 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.

9. Site development and building works shall be carried out only between the hours of 0700 to 1800 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 amenities of property in the vicinity.

Reasons and Considerations (2)

Having regard to the location of the site in what is considered to be a transitional zone between the centre of Finglas Village and predominantly residential areas to the north, to the scale and nature of the proposed fast food outlet proposed including outdoor seating and opening hours, to the lack of details with regard to air extraction and refuse storage and to the proximity of the site to existing residential properties to the north and east, it is considered that the proposed development would have a significant negative impact on the residential amenities of surrounding properties by reason of noise, litter and general disturbance. The proposed development would, therefore, seriously injure the amenities and depreciate the value of properties in the vicinity, would be contrary to the policy of the planning authority, as set out in section 16.25 of the Dublin City Development Plan 2016-2022, to strictly control such uses having regard to, inter alia, their impacts on residential amenity and litter, and would be contrary to the proper planning and sustainable development of the area.

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

Dated this day of 2020.