



Planning and Development Acts 2000 to 2019

Planning Authority: Fingal County Council

Planning Register Reference Number: F19A/0469

Appeal by Robert Casey care of Braniff Associates of 5 Windsor Avenue North, Malone Road, Belfast, Northern Ireland against the decision made on the 25th day of February, 2020 by Fingal County Council to grant subject to conditions a permission to Station Construction Limited care of Conroy Crowe Kelly Architects and Urban Designers of 65 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Amendments to part of Block 4 of approved development PL 06F.247787/register reference number F15A/0565. This application is being lodged concurrently with a separate application which seeks to omit the remainder of the permitted Block 4. The cumulative effect of both these applications will be to reduce the permitted 6,644 square metres of commercial accommodation in Block 4 by 3,029 square metres and to omit two number one bed apartments and nine number two bed apartments in Block 4. The amendments sought in this application comprise the removal of part of the existing two storey commercial Block 4 and replacement with new two storey commercial Block 4A, containing three number commercial units totalling 363 square metres, 48 number undercroft car parking spaces and sundry plant facilities at ground floor, with a single licensed foodstore unit comprising 2,525 square metres gross at first floor, 80 number surface car

parking spaces, in a revised layout that includes access to a delivery ramp up to first floor loading dock, minor revisions to vehicular access from Loughcommon Lane, ancillary minor amendments to associated landscaping, site works and infrastructure on lands at Station Road, Lusk, County Dublin, as amended by the further public notices received by the planning authority on the 31st day of January, 2020.

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 planning history of the site, to the mix of uses and the pattern of development in the vicinity and to the nature and scale of the proposed development, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not materially contravene the current town and district centre zoning provisions for the site, as set out in the Fingal County Development Plan 2017-2023, would not seriously injure the amenities of the area or of property in the vicinity and would not give rise to a traffic hazard or to traffic congestion. 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 27th day of January, 2020 and by the further plans and particulars received by An Bord Pleanála on the 22nd day of June, 2020, 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 conditions of the parent permission granted under planning register reference number F15A/0565 and An Bord Pleanála appeal reference number PL06F.247787 shall be complied with, except as may otherwise be required in order to comply with the following conditions. This permission shall expire on the same date as the permission, unless permission for the continuance of the use beyond that date has been granted.

Reason: In the interest of clarity and consistency and to enable the development to be reviewed, in the interest of the proper planning and sustainable development of the area.

3. Details of the use of and signage for the proposed commercial/retail units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the proposed use.

Reason: In the interests of clarity and visual amenity.

4. Details of the materials, colours and textures of all the 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.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs other than those provided for in this application (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.

6. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following: -
 - (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths and parking area, kerbing and road surfaces within the development,
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings,
 - (c) details of proposed street furniture, including bollards, lighting fixtures and seating, and
 - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

7. 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.

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

Reason: In the interest of public health.

9. All access and parking arrangements, including any alterations to the public road, shall comply with the detailed requirements of the planning authority for such works and services. All such works shall be at the developer's expense.

Reason: In the interest of traffic safety and to ensure a proper standard of development.

10. Prior to the commencement of development, a revised Site Layout Plan showing details of additional pedestrian/cyclist linkages to the site shall be submitted for the written agreement of the planning authority.

Reason: In the interest of permeability.

11. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the proposed use. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

12. 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 the commencement of development. The scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

13. (a) Noise from the development shall not give rise to sound pressure levels (Leq 15 minutes) measured at noise sensitive locations which exceed 55 dB(A) between 0700 hours and 2200 hours and 45 dB(A) at any other time.

(b) There shall be no clearly audible tonal component or impulsive component in the noise emission from the development at any noise sensitive location.

- (c) A detailed noise study, with recommendations, shall be carried out by a competent noise/environmental consultant within three months of the development being in full operation and at any other time as may be specified by the planning authority. The noise study shall be submitted to the planning authority for agreement.

Reason: In the interest of the proper planning and sustainable development of the area.

14. The hours of opening/operation shall be as follows:

- (a) The proposed retail units and anchor store shall not operate outside the hours of 0800 to 2000 Monday to Saturday inclusive, nor outside the hours of 1000 to 1900 on Sundays or public holidays.
- (b) No deliveries shall be taken at or dispatched from the premises outside the hours of 0700 to 2200 Mondays to Saturdays, nor outside the hours of 0900 to 1900 on Sundays or public holidays.
- (c) Site development and building works shall be carried out only between the hours of 0700 and 1900 Mondays to Fridays inclusive, between 0800 hours and 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times shall only be allowed in exceptional circumstances where the prior written approval has been received from the planning authority.

Reason: In the interest of residential amenity.

15. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

16. 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.

17. 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 traffic and plant movements and parking provision for site staff, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

18. 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 the 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.

Paul Hyde

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020.