

Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: F20A/0023

Appeal by Joe Duffy Property Company Limited care of BMA Planning of Taney Hall, Eglinton Terrace, Dundrum, Dublin against the decision made on the 8th day of December, 2020 by Fingal County Council to grant subject to conditions a permission to Port Side Investments Limited care of EMD Architects of 107 Ludford Road, Ballinteer, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The construction of Building 'A', a single storey 6.6 metre high 1,060 square metre motor vehicle service and sales facility building, Building 'B' a single storey 6.6 metre high 895 square metre motor vehicle service and sales facility building, Annexe building to the west of Buildings 'A and B', a single storey 605 square metre ancillary valeting and wash building, Building 'C' a single storey 55 square metre ancillary building providing an Electricity Supply Board substation, bin storage and security office, associated site works including on-grade car parking/display spaces, attached and freestanding signage, flagpoles, proposed new vehicular site entrance off Holywell Dale road extension, associated boundary treatments, landscaping and drainage. All at Holywell, Marshallstown, Swords, County

Dublin. Further public notices were submitted to the planning authority on the 1st day of September, 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 nature of the proposed development, the zoning of the site, the locational context, the scale of the development proposed and the existing road infrastructure serving the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Fingal County Development Plan 2017-2023, would be acceptable in terms of pedestrian and traffic safety and public health, and would not seriously injure the amenities of the area. 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 21st day of August, 2020 and on the 12th day of November, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to the use as described in the planning application (as specified in the lodged documentation), that is, as motor vehicle service and sales facility building 'A' and 'B' and the uses described for ancillary Building 'C', unless otherwise authorised by a prior grant of planning permission, and in particular shall not be used as retail shops, notwithstanding the provisions of Class 14 (a) of Part 1 of the Schedule 2 to the Planning and Development Regulations, 2001, as amended.

Reason: In the interest of clarity and to protect the retail function of Airside Retail Park.



3. 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.

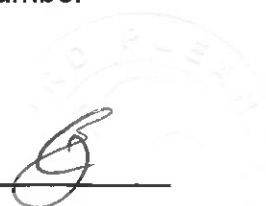
Reason: In the interest of the visual amenities of the area.

4. Apart from the signage shown on the submitted drawings, no further advertisement or advertisement structure or flag poles, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

No signage shall be internally illuminated.

Reason: In the interest of visual amenity, and to allow the planning authority to assess any further signage through the statutory planning process.

- 5 (a) The vehicular access arrangements, internal road network and car parking layout to service the proposed development shall comply with the detailed requirements of the planning authority for such works.
- (b) The vehicular access arrangements shall not impede or interfere with the access road to serve the adjoining lands as granted by the planning authority under planning register reference number F17A/0392.



- (c) The car and bicycle parking facilities, hereby permitted, shall be reserved solely to serve the proposed development. There shall be no associated parking outside of the site on the access roads.
- (d) Cycleways and footpaths shall be provided between the proposed front boundary and the public road carriageway in accordance with the requirements of the planning authority.

Reason: In the interest of clarity and to ensure a satisfactory standard of development and in the interest of permeability.

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, 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.
- (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. Prior to the commencement of development, the developer shall submit to the planning authority an updated and revised Site Specific Flood Risk Assessment in accordance with the requirements of "The Planning System and Flood Risk Management Guidelines" November, 2009. This shall comply with the detailed requirements of the planning authority for such works.

Reason: In the interest of flood protection.

8. 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.

9. 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.



10. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location or at any point along the boundary of the site shall not exceed:-
- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

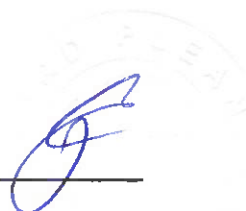
At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (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.

11. The hours of opening shall not exceed 0800 hours to 1900 hours Mondays to Saturdays and shall be closed on Sundays and Bank Holidays.

Reason: In the interest of clarity and of the amenities of proximate residential development.



12. 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. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

13. Lighting shall be provided in the car park area in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be designed to avoid light pollution on neighbouring properties.

Reason: In the interests of amenity and public safety.

14. A plan containing details for the management of waste 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 development. 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.



15. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0700 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.

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 dust, noise and traffic management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity



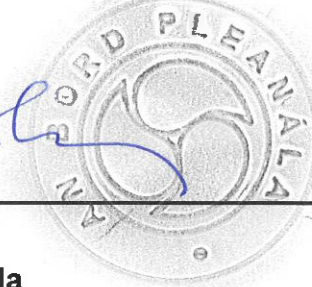

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, cycleways, carparking, watermains, drains, and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.



19. 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.



John Connolly

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

Dated this 12th day of AUGUST 2021.