

Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: F21A/0128

Appeal by James Nugent care of CWPA Planning and Architecture Limited of Unit 10, North Street Business Park, Seatown West, Swords, County Dublin against the decision made on the 30th day of April, 2021 by Fingal County Council to refuse permission for the proposed development.

Proposed Development: (i) Change of use of one number existing agricultural shed to an agribusiness store to facilitate the storage, packing and distribution of agricultural fresh produce, (ii) change of use of two number existing agricultural sheds to agribusiness stores to facilitate the storage and packing of agricultural fresh produce, (iii) construction of new single storey staff/administration building to include offices/toilet/canteen to facilitate staff members on the construction site, (iv) construction of an associated wastewater treatment system to serve the new staff/administration building, (v) permission to amend condition number 4 under planning register reference number F09A/0234 to facilitate commercial access through previously approved outer electric gate at the entrance to the subject site, (vi) construction of a surface car park (circa 80 square metres) to provide a total of 10 number car parking spaces on the subject site, and (vii) erection of

lightning columns on the subject site in the interest of security, and all associated site works necessary to facilitate the development, at Belinstown, Ballyboughal, 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 'RU – Rural' zoning objective of the area and the provisions of the Fingal County Development Plan 2017-2023, the pattern of existing and permitted development in the area, and the layout and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenity of the area or of property in the vicinity, would be acceptable in terms of traffic and pedestrian safety and convenience, would not materially contravene the development plan and would constitute an appropriate form of development at this location. 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 received by An Bord Pleanála on the 27th day of May 2021, 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 proposed development shall be used strictly for the purposes of storage, packing and distribution of agricultural fresh produce. Any change in this use shall not take place until full planning permission has been received from the planning authority or An Bord Pleanála on appeal. The use/operation of the office building shall be ancillary to the agri-business development and shall not be sold or leased separately.

Reason: To prevent unauthorised development and in the interest of the proper planning and sustainable development of the area.

3. Prior to commencement of use, the following details shall be submitted to and agreed in writing with the planning authority.
 - (a) Details of measures to control potential light spillage during the operational phase of the development.
 - (b) Details of receptacles for waste to be provided and available for use at all times on the premises.



Reason: In the interests of clarity and to protect rural and residential amenity.

4. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority details of the proposed security fence and re-located gates at the entrance to the proposed development.

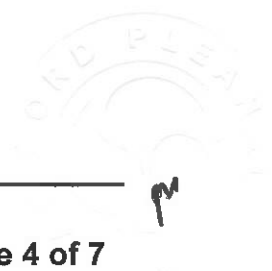
Reason: In the interest of public safety.

5. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

6. 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.



7. (a) The wastewater treatment system and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the EPA Code of Practice "Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. < 10)" (2021) and Department of Environment and Local Government/EPA/GSI "Groundwater Protection Responses for On-Site Wastewater Systems for Single Houses". No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the commencement of the use of the building and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the building and surfaced areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of commencement of use of the building, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the wastewater treatment system has been installed and commissioned in accordance with the approved details and is working in a

satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

8. All public services to the proposed development, including electrical, telephone cables and associated equipment shall be located underground throughout the entire site.

Reason: In the interest of visual amenity.

9. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs, advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

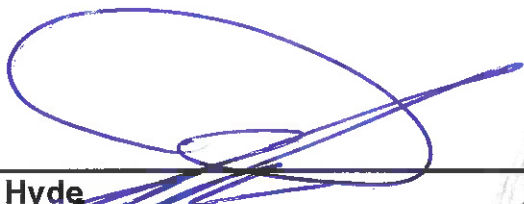
Reason: To protect the visual amenities of the area.

10. 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 traffic management during the construction phase, details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste, as well as means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water drains.

Reason: In the interests of public safety and amenity.

11. 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.



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



Dated this *9th* day of *NOVEMBER* 2021.