

Planning and Development Acts 2000 to 2021

Planning Authority: Fingal County Council

Planning Register Reference Number: F20A/0535

Appeal by Francis and Helen Langton of 16 The Drive, Melrose Park, Kinsealy, Swords, County Dublin and by Martin and Hazel Grogan of 2 The Drive, Melrose Park, Kinsealy, Swords, County Dublin against the decision made on the 16th day of September, 2021 by Fingal County Council to grant subject to conditions a permission to Christy Dowler care of McArdle Doyle of Second Floor, Exchange Building, The Long Walk, Dundalk, County Louth in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a petrol filling station to include: (i) a forecourt area with three number fuel pump islands, illuminated forecourt canopy over, underground fuel storage tanks, associated pipework and over-ground fill points and vents, electric car charging points and associated infrastructure, (ii) an amenity building of 291 square metres gross floor area comprising a convenience shop (100 square metres net retail area), restaurant/café area with one number food offering with hot and cold meals and refreshments for sale for consumption on and off the premises, associated customer seating, customer WCs, Back of House area with food preparation areas, ancillary office, staff welfare facilities, storage and plant

areas, (iii) new vehicular entrance and exit, associated traffic signage, internal and external traffic calming measures, (iv) on-site facilities including, air/water services, car and bicycle parking, (v) illuminated and non-illuminated operator signage including main ID Totem sign, canopy and facade signage, and (vi) all associated site drainage, lighting, landscaping, boundary treatments and site development works all on a site at Holywell Distributor Road, Mountgorry, Swords, 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.

Reasons and Considerations

Having regard to the zoning of the subject site, to the pattern of development in the area, and to the nature, scale and form 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 amenities of the area including residential property in the vicinity, would be acceptable in terms of pedestrian and traffic safety, and would constitute an appropriate form of use at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered the totality of the documentation on the file, including the submissions from third parties and from the planning authority and also considered the planning history of the site. Specifically, the Board

shared the opinion of the planning authority that the current proposed development constituted a significant reduction in the scale of overall development compared to the previous application on site and that the petrol station use would constitute the primary use with the deli counter and associated seating area representing a subsidiary use. In this regard the Board determined that recommended reason number 1 (scale of restaurant/café forming the primary use of the proposed development) and recommended reason number 2 (undermining of the role and function of nearby local centres and Swords Town Centre) as set out by the Inspector were not warranted. Furthermore, the Board determined that the scale, form and layout of the proposed development on zoned lands would not endanger public safety by reason of traffic hazard through obstruction of road users and that having regard to the distance of the proposed development from residential properties on the opposite side of the existing public road, the proposed development would not seriously injure the residential amenity of residential properties in the vicinity.

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 to the planning authority on the 24th day of August, 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 retail floor area shall be restricted to 100 square metres net floor area.

Reason: To ensure that the development shall be in accordance with the permission granted, and that effective control be maintained.

3. External storage of goods for sale is not permitted on site and shall be subject to a separate grant of planning permission from the planning authority or An Bord Pleanála on appeal.

Reason: In the interest of ensuring retail floorspace does not exceed 100 square metres without assessment.

4. Any take-away sales of food on site shall be ancillary to the main petrol station use.

Reason: To ensure that the development shall be in accordance with the permission granted and that effective control be maintained.

5. The hours of operation of the permitted filling station/retail/food offering shall be between 0700 hours to 2300 hours from Monday to Sunday including Bank and Public Holidays. Any change in opening hours shall be the subject of a separate planning application.

Reason: To protect the amenities of the area.

6. (a) Signage on the southern elevation facing the public road and residential estates beyond shall not be internally illuminated.
- (b) Lighting on site shall be turned off when the petrol station is not open.
- (c) No additional advertising signs or structures shall be erected on site except those which are exempted development, without the prior approval of the planning authority or An Bord Pleanála on appeal.
- (d) Any security shutters shall be located behind the windows/doors and shall be an open lattice type. The grille shall have a similar colour to the main shopfront.

Reason: In the interest of visual and residential amenity.

7. The proposed petrol station shall comply with the requirements of the 'Design, Construction, Modification, Maintenance and Decommissioning of Petrol Filling Stations' (Blue Book) – Published by the Association for Petroleum and Explosives Administration/Energy Institute.

Reason: In the interest of public safety.

8. Light spill shall be contained within the site. Lighting shall be cowled and directional and shall not shine into adjoining properties or onto public roads such that would cause nuisance. Lighting on site shall be subject to review by the planning authority at any time.

Reason: In the interest of residential amenity and traffic safety.

9. The following requirements of the Transportation Section of the planning authority shall be fully adhered to-
- (a) Details of the junction shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
 - (b) No objects, structures or landscaping, exceeding a height of 900 millimetres, which would interfere or obstruct (or could obstruct over time) the required visibility envelopes, shall be placed or installed within the visibility triangle.
 - (c) The footpath and kerb shall be dished at the developer's expense to the satisfaction of the planning authority.

Reason: In the interest of traffic and pedestrian safety.

10. (a) Prior to commencement of development, the developer shall verify the maximum groundwater level (allowing for seasonal fluctuation) and demonstrate that the proposed long-term storage volume will not be compromised.
- (b) Prior to commencement of development, the developer shall verify through on-site testing the Soil type and SPR value used in the Qbar calculation.
- (c) The developer shall sign a connection agreement with Irish Water prior to commencement of development and adhere to the standards and conditions set out in that agreement. All

development shall be carried out in compliance with Irish Water standards, codes and practices.

- (d) No surface water/rainwater shall discharge into the foul water system under any circumstances. The surface water drainage shall be in compliance with the 'Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006.

Details showing compliance with (a) and (b) as set out above shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of public health.

11. Adequate provision shall be made for the disposal of litter outside the premises. Litter bins shall be provided in prominent locations both inside and outside the premises.

Reason: In the interest of visual amenity and public health.

12. No music or other amplified sound shall be broadcast externally from the premises.

Reason: To protect the amenities of the area.

13. The following requirements of the Parks and Green Infrastructure Division of the planning authority shall be adhered to –

- (a) The revised landscape plan drawing number PP316 shall be implemented within the first planting season following substantial completion of construction works. In the interest of clarity, a weld mesh fence finished black in colour (rather than a chain link fence) shall be located along the entire northern boundary, unless

otherwise instructed by the fire officer. The proposed low stone faced wall shall be stone clad on both sides.

- (b) Any failures shall be replaced in the following planting season by the developer until such time that the plantings are established.
- (c) The appointed landscape architect shall be engaged at key stages throughout the project to ensure that the agreed landscape plan is implemented, monitor impacts on retained street trees and to liaise with the Parks and Green Infrastructure Division of the planning authority.
- (d) Existing street trees shall be protected from accidental damage. Any street trees removed to accommodate the development shall be replaced within the grass verge, where this is not possible the developer shall pay the planning authority a sum of €800 (eight hundred euro) per tree for replacement planting in the Mountgorry-Holywell area. The appointed landscape architect shall liaise with the Parks and Green Infrastructure Division of the planning authority at construction stage.

Reason: In the interest of visual amenity and biodiversity.

14. The following requirements shall be complied with –

- (i) The hours of operation on all construction sites shall be restricted to between 0800 hours to 1900 hours, Monday to Friday, and 0800 hours to 1400 hours on Saturdays.
- (ii) No activities shall take place on site on Sundays or Bank Holidays.

- (iii) No activity, which would reasonably be expected to cause annoyance to residents in the vicinity, shall take place on site between the hours of 1900 and 0800.
- (iv) No deliveries of materials, plant or machinery shall take place before 0800 hours in the morning or after 1900 hours in the evening.

Reason: In the interest of public health.

15. 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:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network;

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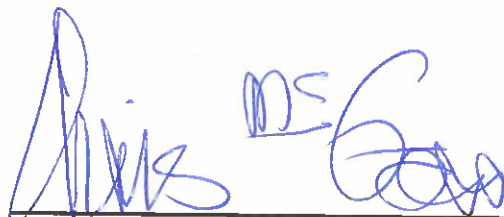
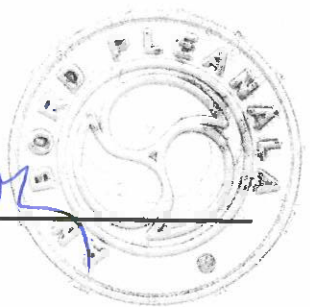
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

16. 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.

Chris McGarry

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

Dated this  day of  2022.