

An Bord Pleanála



Inspector's Report

PL06F.246192

DEVELOPMENT:-

Four storey office building and associated site works at Plaza 211, formally Site E, Blanchardstown Corporate Park (Phase 2) Blanchardstown Road North, Dublin 15.

PLANNING APPLICATION

Planning Authority: Fingal County Council
Planning Authority Reg. No: EW15A/0151
Applicant: Channor Limited
Application Type: Permission
Planning Authority Decision: Grant

APPEAL

Appellant: Channor Limited
Types of Appeal: 1st Party -v- Conditions
Observer: None
DATE OF SITE INSPECTION: 19th May, 2016.

INSPECTOR: Paul Caprani

1.0 INTRODUCTION

PL06F.246192 relates to a first party appeal against a number of conditions attached to Fingal County Council's grant of planning permission for a four storey office building and associated works at Plaza 211, Blanchardstown Corporate Park, Dublin 15. A total of four conditions were appealed. These conditions relate to the restricted uses associated with the office block, the restricted conditions in respect of advertising, the requirement to hold a valid industrial emissions licence and a financial contribution condition.

2.0 SITE LOCATION AND DESCRIPTION.

Blanchardstown Corporate Park is located to the south of the N3 and to the west of the M50 in south-west Fingal. It encompasses a large area to the east of Tyrellstown in the townlands of Cruiserath, Cloghran, Ballycoolin and Mitchelstown. The subject site is located on the eastern side of the main distributor road which runs south from Junction 2, Cherryhound on the N2 towards the Blanchardstown Road North to the South. This distributor road incorporates a series of roundabouts which provides access to the various industrial estates located in the vicinity. The subject site is located in Blanchardstown Corporate Park and comprises of a rectangular site which is currently under grass.

Plaza 212 is located on lands to the immediate west of the subject site. This block accommodates office development including software/tech, web based industry, pharmaceutical and administration. Plaza 212 comprises of a three storey rectangular block. A large two storey unit is located to the south-west of the subject site. Again this block accommodates similar type uses including pharmaceutical research, logistics, software and finance type uses. An internal distributor road runs along the northern boundary of the subject site beyond which a series of similar three storey office/commercial blocks are located. Each of the blocks are surrounded by surface car parking and landscaping (refer to photographs attached).

The subject site is currently under grass and bounded by hedgerows. Lands to the south and east of the subject site accommodate large water reservoirs.

3.0 PROPOSED DEVELOPMENT

Planning permission is sought for the construction of a four storey office block with plant room overhead. The layout of each of the floors are identical with a central core area comprising of lift, toilets and ancillary space surrounded by open plan office space at each level. A proposed recessed entrance is to be located on the northern elevation of the building fronting onto the distributor road which runs along the northern boundary. A plant room is located at roof level. The building rises to a maximum height of 18.7 metres and accommodates a total floor area of 3,238 square metres. The external elevation comprises of glazed curtain walling on all sides. The proposed office block is surrounded by 105 car parking spaces and 70 bicycle spaces. Incidental landscaped areas are also located throughout the car parking area. Vehicular access to the building is provided off the distributor road at an access point located in the north-west corner of the site.

4.0 PLANNING AUTHORITY'S DECISION

The planning application was lodged with Fingal County Council on 25th November, 2015. It was accompanied by a planning application form together with site notices, copies of architects and engineering drawings and an Engineering Report.

4.1 Planning Authority's Assessment

A report from the **Water Services Section** stated that there was no objection subject to two conditions. A report from the Environmental Health Officer dated 16th December, 2015 stated that the proposed development was acceptable subject to a number of conditions.

A report from **Irish Water** stated that there was no objection subject to conditions.

A report from the **Parks Planning Section** noted that no landscaping plan was submitted with the application and that the applicant should be conditioned to submit and agree a landscaping plan for the site.

A report from the **Transportation Planning Section** notes that there should be a maximum parking allowance of 129 car parking spaces while only 105 spaces have been provided. Nevertheless this is deemed to be acceptable to the Transportation Planning Section. It is also noted

that based on the gross floor area of the office, a mobility management plan should be submitted for approval to the Transportation Planning Section. It is considered that the proposed development is acceptable subject to further details being submitted in respect of disabled parking locations and the requirement to submit a mobility management plan.

A report from the **Environment and Water Services Department** recommends additional information in respect of bin storage.

The planner's report sets out details of the proposal and the site and its surroundings. The relevant planning history associated with the site is also noted. The planner's report notes that the office type development is acceptable in principle. It is further stated that to ensure consistency with the area's zoning objective (HT "to provide for office research and development and high technology/high technology manufacturing type employment in a high quality built and landscape environment") that a condition will be incorporated to restrict the proposal to such uses i.e. to Class 3 of Part 4 of Schedule 2 of the Planning and Development Regulations. A hand written note to the report states that the development is being restricted to Class 3 only as Class 2 provides for uses where the services are provided principally to visiting members of the public. Financial and professional services would be allowable under Class 3 subject to the service not principally relying on visiting members of the public.

The report goes on to recommend that planning permission be granted for the proposed development subject to 14 conditions. The following conditions were attached to the Planning Authority's notification to grant planning permission.

2. The use of the proposed office block shall be restricted to uses which are covered by Schedule 2, Part 4, Class 3 of the Planning and Development Regulations 2001 to 2015.

Reason: To clarify the extent of permission, and in the interest of proper planning and the sustainable development of the area.

- 5(b). Stated that no additional advertising signs or structures including that signage which is exempted development under the Planning and Development Regulations 2001 (as amended) shall be erected on site or on the façade of the proposed structures except those agreed above, without a prior grant of planning permission.

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

- 13(g). States that the applicant shall hold a valid industrial emissions licence from the Environmental Protection Agency in respect of proposed activities and comply with all waste management conditions attached prior to the commencement of operations on site.

Reason: In the interest of sustainable waste management.

14. Condition No. 14 requires the developer to pay a sum of €188,369 to the Planning Authority as a contribution towards expenditure that was and/that is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the area and facilities benefitting development in the area of the Authority as provided for in the Development Contribution Scheme for Fingal County Council.

5.0 PLANNING HISTORY

Details of 14 planning applications are attached to the rear of the file. Many of the applications relate to overall infrastructure works to cater for the proposed Technology Park while other applications relate to buildings in the vicinity of the subject site. Two applications relate specifically to the subject site.

Under Reg. Ref. F04A/1601 Fingal County Council granted planning permission for a single storey warehouse with a two storey ancillary office space and associated car parking and site works on the subject site. This decision was 17th January, 2005.

Under Reg. Ref. F08A/0260 planning permission was granted for a four storey office building with rooftop plant and associated car parking, bin store and site works. Planning permission was granted on 22nd April, 2008.

Details of other applications are contained in a pouch to the rear of the file and are also briefly summarised in the Local Authority Planning Report.

6.0 GROUNDS OF APPEAL

The decision of Fingal County Council was the subject of a first party appeal against a number of conditions. The appeal was submitted on 22nd February, 2016 on behalf of the applicant by AOS Planning. The grounds of appeal are outlined below.

Condition No. 2

This condition restricts the uses to be permitted within the office to Class 3 of the Planning and Development Regulations 2001 to 2015. It is argued that it would be preferable if financial or professional services (not visited by the public) were expressly stated as being acceptable in Class 3. It is stated that Fingal County Council have explicitly permitted land uses other than Class 3 which did not permit visiting members of the public. Reference is made to FW09A/0062 in support of this statement. The amendments to the wording such as that suggested would provide a high calibre of potential tenants such as the tenants that already occupy the Business Park. A list of clients currently occupying space in the Business Park is set out in Appendix C of the grounds of appeal.

Condition 5(b)

In respect of Condition 5(b) which relates to restriction on exempted development rights in respect of signage. It is argued that the need to apply for permission for minor or temporary signage that is normally considered exempt seems 'excessive and overly bureaucratic'. Again reference is made to previous decisions by Fingal County Council which place no restriction in terms of exempted development on advertisement signage.

Condition No.13(g)

In relation to Condition No. 13(g) it is noted that the subject development is restricted to a particular office use. It is unlikely that an office type use permitted would require an IED licence from the EPA. It is therefore requested that the Board omit this condition.

Condition No.14

Condition No. 14 relates to development contributions and requires the developer to pay a sum of €188,369. The subject development is located in Phase 2 of the Blanchardstown Corporate Park. The original

development of the Park was subject to a number of planning permissions including development contributions. Attached as Appendix B is a copy of an executive order to the original grants of planning permission for both Phase 1 and Phase 2. The applicant provided land for the provision of a road to access to IDA lands and Ballycoolin, and this cost, it is argued, was offset against the financial contributions. On a number of occasions the applicant has had to request that the Council delete conditions relating to financial levies on subsequent planning permissions. The Council has deleted these levies in the final grant, acknowledging that all levies have been paid. It is requested that the Board considers this in the case of the current situation. It is argued that the terms of the development contribution scheme have not been properly applied in light of the fact that the Council has been paid all levies owed on Phase 1 and Phase 2 of the Park.

7.0 APPEAL RESPONSES

A response was submitted by Fingal County Council on 31st March, 2016. It is stated that the Planning Authority has no comments to make in relation to Conditions Nos. 2 and 13(g). The Planning Authority considers Condition No. 5(b) to be reasonable and the Planning Authority submits that the contributions sought accords with the Development Contribution Scheme currently in place.

8.0 OBSERVATIONS

No observations were submitted in respect of the subject site.

9.0 DEVELOPMENT PLAN PROVISION

The site is governed by the policies and provisions contained in the Fingal Development Plan 2011-2017. The subject site is governed by the zoning objective "HT" - *to provide for office, research and development and high technology/high technology manufacturing type employment in a high quality built and landscaped environment. There are no specific local objectives relating to the subject site.*

10.0 PLANNING ASSESSMENT

I note that the grounds of appeal on behalf of the first party specifically relate to a number of conditions attached to Fingal County Council's notification to grant planning permission. I further note that the proposed development is fully in accordance with the zoning objectives relating to the site and has not been subject to any third party appeal or third party observation objecting to the proposed development. I therefore consider the principle of the development to be acceptable in this instance and I consider that the Board can restrict its deliberations to the issues raised in the grounds of appeal namely the conditions attached to the grant of planning permission issued by Fingal County Council.

Condition No. 2

Condition No. 2 requires that the use of the proposed office block shall be restricted to uses which are covered by Schedule 2, Part 4, Class 3 of the Planning and Development Regulations 2001 to 2015. The reasoning behind the Council's restriction appears to be predicated on restricting members of the public from visiting the offices in question. It is reasonable that the Planning Authority would seek to restrict members of the public from visiting the office park in general as it is clear from the zoning provisions that the objective seeks to provide employment uses generally and not commercial uses which attract members of the public. However having regard to the zoning objective for the site which primarily seeks to provide employment related land uses it would be appropriate in my view to broaden the range of office activities which could be provided on the subject site provided that these employment activities did not attract members of the public for the use of professional services.

It would appear entirely reasonable in my view therefore that the condition be revised as follows:

The use of the proposed office block shall be restricted to uses set out in Schedule 2, Part 4, Class 2 and 3 of the Planning and Development Regulations 2001 to 2015 provided that all uses associated with Class 2 shall be restricted to financial or professional services which do not principally rely on or generate trips from visiting members of the public.

Finally I note that the Planning Authority in its response to the grounds of appeal do not object to the principle of allowing financial or professional services to be accommodated on the subject site provided

that such services do not generate trips associated with visiting members of the public. I therefore recommend that the Board alter Condition No. 2 accordingly.

Condition 5(b)

Condition 5(b) stipulates that no additional advertising signs or structures including that signage which is exempted development under the Planning and Development Regulations 2001 (as amended) shall be erected on the site or on the façade of the proposed structure except those agreed above, without a prior grant of planning permission. The grounds of appeal argue that the need to apply permission for minor or temporary signage which is normally deemed exempt is considered to be excessive and overly bureaucratic. The Planning Authority in its response to the grounds of appeal state that Condition No. 5(b) is reasonable, although it is not explicitly stated as to why the Planning Authority consider the restrictive nature of this condition to be reasonable. I consider that the Exempted Development Regulations serve a purpose in taking minor and sundry type developments out of the planning code in order to avoid excessive bureaucracy. Where it is considered appropriate that the Planning Authority deviate or de-exempt such development I consider it necessary that the reasoning behind any such de-exemption be stated. In my opinion therefore the onus is on the Planning Authority to provide justification as to why advertising and signage which is normally considered to be exempted development would be de-exempted in this instance. The site in question is not located in a visually sensitive area nor an area of high amenity where the proliferation of minor signage which would normally be deemed to be exempt, may impact on the visual amenities of the area. I therefore consider that the Board should exclude this restriction and that a standard condition be attached which does not de-exempt such advertising signs or structures. I recommend therefore that the condition be amended as follows:

Notwithstanding the provisions of the Planning and Development Regulations 2001 or any statutory provision amending or replacing them, no advertisement signs (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 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.

Condition 13(g)

Condition 13(g) requires the applicant to hold a valid industrial emissions licence from the Environmental Protection Agency in respect of proposed activities and comply with all waste management conditions attached prior to the commencement of operations on site. The proposed development currently before the Board relates to a four storey office development. This use or activity does not fall under the First Schedule of the Environmental Protection Agency Act 1992 as amended. As such an IED licence is not required for the subject site. I therefore consider this condition can be omitted.

Condition No. 14

Condition No. 14 requires the developer to pay a sum of €188,369 to the Planning Authority as a contribution towards expenditure that was and/that is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the area and facilities benefitting development in the area of the Authority as provided for in the Development Contribution Scheme for Fingal County Council. The grounds of appeal challenge this condition on the grounds that the original development of the Park was subject to a number of planning permissions and the subject of a number of development contributions. Details of the development contributions already paid are contained in Appendix B of the grounds of appeal.

It appears from the Record of Executive Business and Managers Orders attached to the grounds of appeal that planning permission was granted under Reg. Ref. F96A/0773 for 21 light industrial/warehouse units for Blanchardstown Corporate Park Phase 1. The total development contribution paid in respect of this application was €403,876.

Furthermore under F97A/1149 planning permission was granted for alterations and extensions to the previously approved application and this attracted a total financial contribution of €379,022. It appears from the manager's order (which includes an offset of €248,803) that the total financial contributions have been paid in respect of this application.

In respect of Phase 2 of the development which was granted under F99A/0166, a financial contribution specifically for roads, sewers, watermains and other ancillary infrastructure to serve the proposed science and technology industrial park amounted to €790,147.

Under Reg. Ref. F00A/1116 permission was granted to revisions for the above development and these changes attracted levies of circa €1.990 million. It also appears the Director of Services of the Transportation Department of Fingal County Council have agreed to pay the sum of circa €1.27 million as compensation for the provision of a road through the development which will facilitate access to the IDA lands at the Ballycoolin Business Park.

It appears therefore that the applicant in this instance has paid financial contributions specifically in respect of public infrastructure and facilities benefitting the proposed development. It appears that Condition No. 14 attached to the grant of planning permission specifically relates to development contributions under the development contribution scheme adopted by Fingal County Council for public infrastructure and facilities benefitting the proposed development.

I can only conclude based on the information contained on file that development contribution levies have already been paid for infrastructure and services serving the site. The Planning Authority in its response to the grounds of appeal merely states that the contribution sought accords with the Development Contribution Scheme currently in place. The key issue which the Board must determine is whether or not the contribution sought under the current application constitutes a double charging. It would appear, based on the information contained in Appendix B of the grounds of appeal that financial contributions have already been paid in respect of public infrastructure benefitting the proposed development and therefore the proposal in this instance represents a double charging and should be omitted in any revised decision issued by the Board.

11.0 Appropriate Assessment

There are no designated Natura 2000 sites within 10 kilometres of the subject site. Therefore having regard to the nature and scale of the proposed development and the nature of the receiving environment and the proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

12.0 CONCLUSIONS AND RECOMMENDATIONS

Arising from my assessment above I consider that the Board should amend Fingal County Council's conditions attached to the notification to grant planning permission as follows:

Condition no. 2

The use of the proposed office block shall be restricted to uses set out in Schedule 2, Part 4, Class 2 and 3 of the Planning and Development Regulations 2001 to 2015 provided that all uses associated with Class 2 shall be restricted to financial or professional services which do not principally rely on or generate trips from visiting members of the public.

Reason: In the interests of orderly development.

Condition 5(b).

Notwithstanding the provisions of the Planning and Development Regulations 2001 or any statutory provision amending or replacing them, no advertisement signs (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 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.

Condition 13(g) – Omit.

Condition 14 – Omit.

**Paul Caprani,
Senior Planning Inspector.**

1st June, 2016.

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