



An
Bord
Pleanála

Inspector's Report ABP-301480-18

Development	Change of use from commercial storage to commercial recreational centre
Location	Unit 8, North Park, Finglas, Dublin 11
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW17A/0151
Applicant(s)	LCACF Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First-Party
Appellant(s)	LCACF Ltd.
Observer(s)	None
Date of Site Inspection	19 th July 2018
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The site is located within the North City Business Park, which forms part of an expansive business and industrial park area, on the northern fringes of Dublin city, approximately 70m from the M50 motorway. Vehicular access to the site is from a business park access road, which connects with the R135 regional road approximately 400m to the east of the appeal site. It accommodates a vacant commercial unit, most recently used for commercial storage, along with associated car parking and service areas to the south and east of the building, including a dock-levelled loading bay to the east elevation.
- 1.2. The subject commercial unit is split internally into four levels, measuring c.39m in width and c.24m in depth, and occupies the southeastern corner of four similar sized units that form a rectangular commercial block. The immediate area contains a mix of uses, including offices, commercial recreational facilities, commercial storage, distribution centres, light manufacturing and commercial retail uses. The subject unit is adjoined to the north by a recreational facility, Awesome Walls, containing climbing walls. Approximately 80m to the south of the appeal unit is another commercial recreational facility, GoQuest Indoor Challenge Zone. Ground levels in the vicinity drop steadily in a southwards direction.

2.0 Proposed Development

- 2.1. The proposed development comprises:
- the change of use of a commercial storage unit to a commercial recreational unit, comprising staff and customer areas, play rooms and play areas at ground and first-floor level;
 - replacement and additional signage to the front and side elevation;
 - revised layout to the parking and service areas to the front and side of the unit, to provide for 23 no. car parking spaces and associated landscaping.
- 2.1.1. Following submission of Further Information, the proposed development was revised to provide additional car parking spaces, resulting in 40 no. spaces in total.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission for the proposed development, subject to 12 conditions, generally of a standard nature, including the following:

Condition No.6 - The hours of operation shall be 9.00am until 5.00pm Monday to Friday, from 9.00am to 7.00pm on Saturday, Sundays and Bank Holidays.

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

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report prepared on behalf of the Planning Authority (October 2017) noted the following:

- the proposed use is appropriate for this area, with similar type uses operating in the vicinity;
- demand for parking would be high and may conflict with the operation of neighbouring uses. Further information should be requested to address car parking and hours of operation.

The second report prepared on behalf of the Planning Authority (January 2018) noted that the response regarding customer and staff numbers, but sought clarification of further information regarding access to the parking fronting the adjoining unit to the west and the rationale for providing a total of 40 no. spaces.

The final report prepared on behalf of the Planning Authority (March 2018) reflects the decision of the Planning Authority and noted that the response relating to parking and operational logistics was satisfactory.

3.3. Other Technical Reports

- Water Service Section - no objection;
- Transport Planning Section – further information initially requested and subsequent response stated no objection subject to a condition.

3.4. Prescribed Bodies

- Irish Water - no objection.

3.5. Third-Party Submissions

- None received.

4.0 Planning History

4.1. Subject Site

4.1.1. The following applications relate to the appeal site:

- Fingal County Council (FCC) Ref. F99A/1393 – Permission granted (October 2000) for a business park;
- FCC Ref. F05A/0547 – Permission granted (July 2005) for internal alterations to create three additional floors to accommodate commercial storage and minor manufacturing areas.

4.2. Surrounding Sites

4.2.1. There have been numerous planning applications for change of use permissions within the vicinity of the appeal site, including the following:

- FCC Ref. F04A/0890 – Permission granted (September 2004) for change of use of Unit 6 (Awesome Walls), adjoining to the north of the appeal site, from warehouse to a children's recreational centre, including 30 no. car parking spaces;
- FCC Ref. FW15A/0092 – Temporary permission granted (September 2015) for a five-year period for change of use of Unit 23 (GoQuest Indoor Challenge), approximately 80m to the south of the appeal site, from warehouse to a commercial recreational centre. Condition 5(i) of the permission restricted the hours of operation between 1300 hours and 2200 hours Monday to Friday and between 1000 and 2200 hours Saturdays, Sundays and Bank Holidays.

5.0 Policy Context

5.1. Development Plan

5.1.1. The appeal site has a zoning objective 'GE – General Employment' within the Fingal Development Plan 2017-2023 with a stated objective to 'provide opportunities for general enterprise and employment'. The Development Plan clarifies that the purpose of the 'GE – General Employment' zoning is to facilitate opportunities for general employment uses and compatible forms of industry, logistics and warehousing. The stated vision for 'GE – General Employment' zoned lands is to:

- 'Facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable and legible'.

5.1.2. Commercial recreational uses, such as that proposed, are not listed as being 'permitted in principle', nor are they listed as being 'not permitted' on 'GE – General Employment' zoned lands. According to the Development Plan, uses that are neither 'permitted in principle' nor 'not permitted' will be assessed in terms of their contribution towards the achievement of the zoning objective and vision, and their compliance and consistency with the policies and objectives of the Development Plan.

5.1.3. Car parking standards for commercial recreational facilities are not outlined within Table 12.8 of the Development Plan. The Development Plan outlines that in the case of any use not specified, the Planning Authority will determine the parking requirements, based on similar uses and first principles.

6.0 The Appeal

6.1. Grounds of Appeal

A first-party appeal has been lodged only against Condition No.6, which was attached to the Planning Authority's notification of a decision to grant planning permission. The following grounds of appeal are raised:

- the appellant had not intended to set the opening hours when responding to the further information request;
- the premises is located in a retail / business park and is not proximate to residential properties;
- appellant requests that the condition be omitted or amended to allow for the facility to operate from 0800 hours to 2000 hours on a daily basis.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority response to the grounds of appeal noted that the hours outlined in the subject condition are reasonable, but that they would also be satisfied with the hours of operation (0800 hours to 2000 hours on a daily basis), as sought by the appellant in their appeal.

6.3. **Observations**

- None received.

7.0 **Assessment**

7.1. This is a first-party appeal only against Condition No.6 attached to the Planning Authority's notification of a decision to grant permission. Condition No.6 restricts the proposed commercial recreational facility to only be used between 0900 hours and 1700 hours, Monday to Friday (inclusive), and between 0900 hours and 1900 hours on Saturdays, Sundays and public holidays.

7.2. Having regard to the nature and scale of the proposed development and the nature of Condition No.6, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance, would not be warranted. Therefore, the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.

7.3. The grounds of appeal assert that the site context, within a business/commercial district and distant from residential properties, should allow for more flexible operational hours for the proposed commercial recreational facility. The appellant

states that it had not been the intention for the hours of operation for the facility to be set based on the details outlined within their initial Further Information response to the Planning Authority in January 2018. The appellant requires the condition to be either omitted or for the hours of operation to be amended to allow the proposed commercial recreational facility to only be used between 0800 hours and 2000 hours on Mondays to Sundays, including public holidays i.e. that the hours of operation are extended by an hour earlier every morning, three hours later on weekday evenings and an hour later on weekends and public holidays.

- 7.4. The Planning Authority's reason for attaching Condition No.6 to their notification of a decision to grant permission is stated as being 'in the interest of the proper planning and development of the area'. In response to the appeal, the Planning Authority outlined that they would be satisfied with the revised operational hours, as sought by the appellant.
- 7.5. In responding to the request for further information in January 2018 the appellant outlined to the Planning Authority that the proposed hours of operation would be between 0900 hours and 1700 hours on Mondays to Fridays (inclusive), and between 0900 hours and 1900 hours on Saturdays and Sundays. These hours of operation were subsequently specified within the subject condition attached by the Planning Authority in their notification of a decision to grant planning permission for the proposed development.
- 7.6. I note that there are other similar commercial recreational facilities within the immediate environs of the commercial / business park, including Awesome Walls, which occupies the adjoining Unit 6 to the north of the appeal site, and GoQuest Indoor Challenge, which occupies Unit 23, approximately 80m to the south of the appeal site. I am not aware of planning restrictions relating to the hours of operation of the facility 'Awesome Walls', but I would note that their website details their current operational hours as between 1000 hours and 2200 hours on Mondays to Fridays (including Public Holidays), and between 1000 hours and 2000 hours on Saturdays and Sundays. The temporary planning permission granted by the Planning Authority (under FCC Ref. FW15A/0092) for a five-year period in September 2015 for the GoQuest Indoor Challenge facility, restricts the proposed commercial recreational facility to only being used between 1300 hours and 2200

hours Monday to Friday and between 1000 hours and 2200 hours Saturdays, Sundays and Public Holidays.

- 7.7. In responding to the Planning Authority's Further Information request, the appellant had largely been addressing concerns raised by the Planning Authority relating to parking. The Planning Authority was concerned that the facility would attract a high parking demand, which would conflict with the ongoing operation of neighbouring commercial, business and light manufacturing uses. I would consider the peak hours of operation of the proposed commercial recreational facility, which is intended to primarily serve school-going children, would not conflict with the primary business hours of the neighbouring commercial, business and light manufacturing uses. I am also satisfied that based on the site context within a commercial business district, which includes similar commercial recreational facilities operating into the late evening, and given the nature and scale of the commercial recreational facility, the proposed operational hours requested by the appellant in their appeal would not be unreasonable. Furthermore, given the nature of the use and the 'GE – General Employment' zoning for the area, as outlined in the Dublin City Development Plan 2016-2022, where the stated primary purpose is to facilitate opportunities for general employment uses and compatible forms of industry, logistics and warehousing, it would be necessary and reasonable to restrict the opening hours to those specifically requested by the appellant, and not to omit the condition in its entirety.
- 7.8. I am satisfied that Condition No.6, restricting the use of the proposed commercial recreational facility to being used between 0900 hours and 1700 hours Monday to Friday (inclusive) and between 0900 hours and 1900 hours on Saturday, Sundays and Public Holidays, would not be warranted, given the nature of the facility and the site context. In conclusion, the condition should be amended to reflect the hours stated to be agreeable to both the appellant and the Planning Authority.

8.0 **Appropriate Assessment**

Having regard to the minor nature of the proposed development, the existing development on site, the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a

significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. It is recommended that the Planning Authority be directed to amend condition number 6 for the reasons and considerations hereunder, as follows:

The commercial recreational facility shall only be used between 0800 hours and 2000 hours on Mondays to Sundays inclusive (including public holidays).

Reason: To safeguard the amenities of properties in the vicinity.

10.0 Reasons and Considerations

1. Having regard to the nature and scale of the proposed development and the pattern of development in the area, including existing commercial recreational facilities within the immediate business / commercial park, it is considered that the hours of operation for the proposed development, as required by the Planning Authority in its imposition of condition number 6, are not warranted, and that the hours of operation, as requested in the documentation submitted, would not have a significant impact on the amenities of the area, would not conflict with the provisions of the Dublin City Development Plan 2016-2022 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

24th July 2018