



An  
Bord  
Pleanála

## Inspector's Report ABP-308761-20.

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<b>Development</b>	Retention of carpark for five years.
<b>Location</b>	Northern Cross, Malahide, D17.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	3975/19.
<b>Applicant(s)</b>	Camgill Property a Tri Limited.
<b>Type of Application</b>	Permission (retention).
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Camgill Property a Tri Limited.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	14 <sup>th</sup> April 2021
<b>Inspector</b>	Philip Davis.

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## 1.0 Introduction

This appeal is by the applicant against the decision of the planning authority to refuse permission for a further 5 year usage of a carpark within a mixed use commercial/residential development in North Dublin. The carpark was originally granted temporary permission to permit its use prior to it being brought forward for development.

## 2.0 Site Location and Description

### 2.1. City Junction Business Park

The appeal site is within a business park on the northern outskirts of Dublin at Belcamp, at Northern Cross. It is just north of the R139, an urban distributor road that runs directly east from Junction 1 on the M1/M50 interchange, serving Donaghmede and Baldoyle. The business park has a direct access to the Malahide Road (R107), which is the eastern boundary of the estate in addition to the R139. To the north of the business park is the shallow wooded valley of the Mayne River, which flows to Baldoyle estuary.

### 2.2. Appeal site.

The appeal site, with a site area given as 0.79 hectares, is surface carpark within the business park. The carpark has a single controlled entrance and has a paved surface and is secured with palisade fencing on all sides. To the south, west and east are a variety of commercial buildings and apartments (including as yet undeveloped lands), all part of a relatively modern mixed use (mostly commercial) development, with the wooded valley of the Mayne to the north. Directly south of the carpark is a single office building with some parking within its curtilage – this is used by a company called Mylan and is the primary user of the carpark.

## 3.0 Proposed Development

The proposed development is for a five year continuation of the use of the site as a carpark (no physical changes proposed). In subsequent correspondence the applicant suggested that this could be reduced to two years.

## 4.0 Planning Authority Decision

### 4.1. Decision

The planning authority decided to refuse permission for three reasons - in summary:

1. It is considered a substandard use of a zoned and serviced site and so contrary to the Z14 zoning designation (mixed use development) and Z6 (employment) and policy MTO4 in the Clongriffin-Belmayne LAP 2012-2022.
2. It would result in an excess of commuter parking and thus be contrary to policies MT2; MT13, MT15, MT16 and MT21 of the City Development Plan.
3. The use of the site would result in an excess number of carparking spaces with regard to the guidelines in Table 16.1 of the City Development Plan.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Reports

Two reports are on file, one subsequent to a request for further information.

- Notes that the parking use is ongoing, and contains 207 spaces, with a 5 year permission dating from 2409/14.
- It is stated that while the argument for a carpark was accepted in 2014, this was considered to be a one-time scenario and it was expected that development proposals for the redevelopment of the site would be brought forward before the expiration of that permission.
- It is not considered that the applicant has submitted a convincing argument as to why a further five year permission would not prevent the site being brought forward for appropriate development.
- It is not considered that the previous permission should not be considered a precedent.
- It is noted that the information submitted shows that 84% of staff use cars, with a low take up of public transport.
- Notes 'serious concerns' about the proposal from Transportation Division.

- The second report noted the response by the applicant. It is noted that the Transportation Section recommended a refusal.
- Refusal recommended.

#### 4.2.2. Other Technical Reports

**Drainage division:** No objection:

**Transportation Planning Division:** Recommended seeking additional information – serious concerns about the traffic implications outlined. A second memo on foot of a further information request recommended refusal.

#### 4.3. Prescribed Bodies

None on file.

#### 4.4. Third Party Observations

None on file.

### 5.0 Planning History

**2409/14:** Five year permission for the provision of 207 spaces on the site, new and replacement boundary treatment, etc., to serve Block E of the City Junction Business Park.

### 6.0 Policy Context

#### 6.1. Development Plan

The site is in an area zoned Z14 *'to seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and 'Z6' would be the predominant uses'*.

With regard to commercial carparking, policy MTO4 states that it is policy to:

*To facilitate ...efficient utilisation of public transport and promote walking and cycling, through a range of means including a reduced provision of car parking for commercial developments.*

## **6.2. Natural Heritage Designations**

There are no Natura 2000 sites in or near the vicinity of the site. The Mayne river to the north of the site drains to the Baldoyle Bay, where there are a number of designated habitats including the Baldoyle Bay SPA Site code 004016 and the Baldoyle Bay SAC site code 000199. These sites are designated for their importance for littoral and coastal habitats and related species.

## **6.3. EIAR**

Having regard to the limited nature and small scale of the proposed development, the planning and development history of the site, and the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

- The planning history of the site and the overall policy context is outlined in some detail with plans indicating the proposed phasing of developments on the applicant's landholding in the area.
- It is argued that the continued use of the carpark for 2 years is the most effective use until it can be brought forward for development.
- It is stated that it is to be part of phase 3 of the overall development lands at Northern Cross. It is stated that it is intended to progress with a SHD planning application in 2021, following the submission of a S.34 application for other sites and an ongoing SHD application.

- The planning authority's concerns are acknowledged, but it is requested that the Board address these by way of limiting the extension of use to 2 years.
- It is submitted that the use of the site as a temporary carpark is part of a planned, phased development of the overall lands at Northern Cross, and it is emphasised that the developer has shown a firm commitment to bringing forward developments on the lands.
- It is argued that permitting temporary use of the carpark allows for more efficient and sustainable use of the lands.
- The study submitted with the FI request is referred to – it is noted that there has been a very low uptake of cycling to work, and it will take some time to implement more sustainable travel patterns to the site.
- With specific reference to refusal reason 1, it is argued that the proposed extension would not be contrary to the zoning context as it is part of a planned and phased development of the overall business park.
- With specific reference to refusal reason 2, it is outlined that the carpark is in use by Mylan, a key employer in the area, and details have been submitted for decommissioning of the carpark and the encouragement of more sustainable travel modes by their employees – reference is made to the Transport and Mobility Report which accompanied the application. It is argued that more time is needed to fully implement the measures proposed and currently under way to promote cycling and public transport use.
- With reference to refusal reason 3, it is acknowledged that the provision of parking is in excess of Development Plan guideline levels, but with regard to the more generous provisions allowed in Fingal, it is argued that this gives a competitive advantage to developments in Fingal and is generally inappropriate for the immediate context.
- Additional correspondence and technical information is appended in support of the grounds of appeal.

## 7.2. Planning Authority Response

The planning authority has not responded to the grounds of appeal.

## 8.0 Assessment

Having inspected the site and reviewed the file documentation, I consider that the appeal can be addressed under the following general headings:

- Policy context and planning history
- Parking and travel issues.
- Appropriate Assessment
- Other issues

### 8.1. Policy context and planning history

The applicant has outlined in detail the overall planning and policy context of the site, and the development context. The business park is a prominent and good quality overall mixed office/commercial/hotel/residential development in the rapidly growing Northern Cross/Belmayne area. The site, and surrounding area, is zoned Z14, mixed use with residential use predominating. In such areas, and in line with national, regional and Development Plan policies, there are general policies to set a maximum parking provision, with exceptions only in exceptional circumstances in order to facilitate more sustainable transport patterns. It is acknowledged by the applicant that the parking provision for the estate and the office building served by the carpark, are excess with regard to the zoning and development guidelines in the Development Plan. I consider these policies and parking standards to be generally consistent with national and regional policy with regard to creating more sustainable travel patterns in urban and fringe areas. I further note the concerns of the planning authority in ensuring that sites such as this are brought forward for development as quickly as possible, especially given the need to release more residential lands.

The applicant argues that the extended use of the carpark is for 2 years only (the application is for five years, but the applicant suggests that a reduction would be acceptable), and would be consistent with the overall phasing plan (which is set out in detail in the submission, and which I consider to be generally accurate and reasonable). While I accept that the temporary use of empty lands for carparking is reasonable for the development phase of an area such as this, the original permission for five years was specifically intended to permit such flexibility. I do not



see any extenuating or exceptional circumstances to consider that extending it by a further time period would be consistent with either the wording or spirit of national, regional and local policy. I therefore concur with the planning authority in their conclusion that the proposed development is contrary to policy and I would recommend that their reason for refusal is generally upheld on policy grounds.

## 8.2. Parking and traffic issues.

As part of the submission, the applicant submitted a detailed report on mobility and sustainable transport as part of an argument that a longer phased period for the use of the carpark would be justified. I would note that obviously the ongoing issue with Covid and its unknown effects on working patterns makes such plans and projections somewhat moot, at least for the foreseeable future. While I accept that until such time as the Belmayne/Clongriffin area is developed in line with the LAP there are significant difficulties in accessing the site by foot or bike or public transport - in particular I would note the very hostile and poorly designed layout of the main cross roads itself with regard to pedestrians and cyclists (the main access to the industrial estate from the Malahide Road is also very poorly designed for cyclists and represents a significant hazard), I would note that all this was known at the original development stage and I do not see a justification for further extending the carparks use.

I note the argument submitted with regard to more generous standards permitted for commercial uses in Fingal, to the north, but these differing standards have been known for some time, and again, I do not see that they justify an extension without any extenuating circumstances, and I do not consider that such extenuating or exceptional circumstances apply.

## 8.3. Appropriate Assessment

There are no Natura 2000 sites within 1 km of the proposed development. The Mayne river to the north of the site drains to the Baldoyle Bay, where there are two designated habitats including the Baldoyle Bay SPA Site code 004016 and the Baldoyle Bay SAC site code 000199. The site is within the general watershed of these Natura 2000 sites, designated for a variety of migrating shore and seabirds, although the site is fully connected to the Dublin City sewerage and drainage system. Having regard to the small scale of the proposal within a permitted business park and the separation distance from any Natura 2000 sites, no Appropriate

Assessment issues arise, and I do not consider 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.

#### 8.4. Other issues

I note that the site adjoins the River Mayne, and it is set out in the Clongriffin-Belmayne LAP section 7.3 that all developments along the River Mayne corridor shall provide a riparian buffer zone in accordance with guidelines published by Inland Fisheries Ireland on Planning for Watercourses in the Urban Environment. I note that IFI was not consulted in the application and appeal – if the Board is minded to grant I would recommend that they be requested to comment as it appears to me that no such buffer has been provided.

I do not consider that there are any other substantive other issues raised in this appeal.

### 9.0 Recommendation

I recommend that the proposed development be refused permission for generally the reasons set out by the planning authority, as set out in Section 10 below.

### 10.0 Reasons and Considerations

1. The site is located within an existing and largely developed area of land with a Z14 zoning designation with the Clongriffin-Belmayne Area, identified as a Strategic Development and Regeneration Area 1 growth area within the city. It is considered that the retention and continued use of the site as a surface carpark is a substandard and unsustainable use of a zoned and service site which is not consistent with the planning history of the site and adjoining lands or the Z14 zoning designation. It is not considered that any exceptional circumstances apply to justify the continued use of this land as carparking beyond the already permitted 5 year temporary permission. The retention and continuation of the use would therefore be contrary to the policies and objectives of both the Dublin City Development Plan 2016-2022 and the Clongriffin-Belmayne Local Area Plan 2012-2022 and would this be contrary to the proper planning and sustainable development of the area.

2. It is considered that the retention of the site for carparking would result in an excess of carparking spaces in the area over and above the maximum permitted in table 16.1 of the Dublin City Development Plan 2016-2022 and would be contrary to policies MT2, MT13, MT15, MT16 and MT21 with regard to promoting a modal shift from private car use towards sustainable transport policies. It is not considered that exceptional circumstances apply to permit an exemption to these policies and guidelines figures. The proposed development would, therefore, be contrary to the guidelines and policies set out in the Dublin City Development Plan 2016-2022 and would thus be contrary to the proper planning and sustainable development of the Clongriffin-Belmayne area.

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Philip Davis  
Planning Inspector

20<sup>th</sup> April 2021