



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318883-24

<b>Development</b>	Permission for continuation of use for indoor sports activities. Temporary permission was granted for 5 years under reg. ref. F13A/0439 and further extended for 5 years under F19A/0009.
<b>Location</b>	Unit 27, Airways Industrial Estate, Santry, Dublin 9
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F23A/0659
<b>Applicant</b>	Jump Zone North Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First Party v. Condition no.2
<b>Appellant</b>	Jump Zone North Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	03 March 2024
<b>Inspector</b>	Rachel Gleave O'Connor

## 1.0 Site Location and Description

- 1.1. The subject site is situated to the west and south of the M50 and east of the R132 located within Airways Industrial Estate. The subject site relates to Unit no.27 in the industrial estate which accommodates 'Jump Zone' indoor play / trampoline park. The unit is on the north side of Dakota Avenue. The floor area of the unit is stated as 2,742sqm with a subject site area stated as 0.5863ha.

## 2.0 Proposed Development

- 2.1. The appeal relates to condition no.2 of planning permission F23A/0659 regarding an application for the continuation of the existing use at the site for indoor activities. Condition no.2 of permission F23A/0659 states the following:

*"2. This permission shall be for a period of five years only from the date of the final grant of permission, after which time the use shall cease unless a prior grant of planning permission has been granted for the continued use of the facility by the Planning Authority or An Bord Pleanála on appeal.*

*Reason: In the interest of clarity and the proper planning and sustainable development of the industrial estate."*

- 2.2. The appellant seeks removal of condition no.2 and a permanent permission for the operation of indoor activities at the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.2. On 15<sup>th</sup> December 2023, the planning authority issued a notification of decision to grant permission, subject to 11 conditions.

### 3.3. Planning Authority Reports

#### 3.3.1. Planning Reports

The following comments are included in the planner's report:

- The site of the development is located in an area designated with zoning objective 'GE' General Employment to 'Provide opportunities for general enterprise and employment' in the Fingal Development Plan 2023-2029. A recreational facility/sports facility is not listed under uses that are 'Permitted in Principle' or 'Not Permitted', however, the subject site is already operating as an indoor sports facility on a temporary basis and so the principle of the proposed development has already been established on a temporary basis through Reg. Refs. F19A/0009 and F13A/0439.
- While acknowledging the applicant's reference to similar establishments in Dublin in Dun Laoghaire Rathdown and South Dublin County Councils, that do not have a restrictive temporary permission condition, the Planning Authority, as per the previous temporary approvals on the site, considers that a 5 year permission would be appropriate in this instance having regard to the location of the development within an industrial estate, within which permitted uses include industry, road transport depots and warehousing.
- Note that the application states that the use provides for in excess of 25 jobs.
- The Planning Authority considers the continuation of use of the subject unit for indoor sports activities acceptable. The imposition of a condition restricting the use to a period of five years would not unduly prejudice the return of this building to industrial/warehouse use at the end of this period.
- No concerns raised with respect to car parking.
- Details of bicycle parking unclear, condition required to require provision in line with Development Plan standards.
- The Transportation Planning Section have commented that the vehicular access are excessively wide for the proposed land use and should be reduced. The imposition of a condition regarding reducing the vehicular accesses to the site is not considered reasonable or necessary with regards to this temporary type use which is recommended for approval on a temporary basis as per the previous approvals on the site. Access reductions were not requested through condition on the two previous approvals on the site.

- Screening for Appropriate Assessment: It is considered that the proposed project, individually or in combination with another plan or project, will not have a significant effect on any European sites.
- EIA Screening: No EIA required.
- Conclusion: Having regard to the existing nature and location of the development it is considered that, subject to compliance with conditions, the continuation of the development would not seriously injure the vitality of the industrial estate, the amenities of the area or property in the vicinity and is therefore in accordance with the proper planning and sustainable development of the area.

#### 3.3.2. Other Technical Reports

- Transport Planning Section: No objections raised subject to conditions requiring improved bicycle parking provision and that the widths of both vehicular accesses be reduced to a detail to be agree with the planning authority.
- Water Services: Confirm no objection to proposal.
- Environment, Climate Action and Active Travel Department: Confirm no comments to make.

#### 3.4. Prescribed Bodies

- Uisce Éireann: No objection subject to conditions.
- Irish Aviation Authority (IAA): No response.
- Dublin Airport Authority (DAA): No comment, other than to recommend consultation with IAA.

#### 3.5. Third Party Observations

- None received.

## 4.0 Planning History

### 4.1. Subject site

- 4.2. F19A/0009: Permission granted on 16<sup>th</sup> April 2019 for continuation of use for indoor sports activities under reg. ref. F13A/0439. Permission subject to conditions, including condition no.2 concerning temporary consent for a period of five years.
- 4.3. F13A/0439: Permission granted on 3<sup>rd</sup> March 2014 for change of use to indoor sports activities together with new main entrance doorway, 3 illuminated signs and ancillary works. Permission subject to conditions, including condition no.2 concerning temporary consent for a period of 5 years.

### 4.4. Surrounding area

- 4.5. Unit 5 Airways Industrial Estate Santry Reg. Ref. F12A/0075: Permission granted 15<sup>th</sup> June 2012 for change of use to indoor football facility. Permission subject to conditions, including condition no.2 that the permission be for a temporary period of three years.

## 5.0 Policy Context

- 5.1. Local Planning Policy is set out in the Fingal County Development Plan 2023-2029.
- 5.2. The site is zoned 'GE' General Employment to 'Provide opportunities for general enterprise and employment', with the associated vision: 'Facilitate opportunities for compatible industry and general employment uses including appropriate sustainable employment and enterprise uses, logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable and legible.'
- 5.3. The proposed indoor recreational use is not listed as either permitted or not permitted. Part of the use includes a café, and restaurant/café is permitted in principle under the zoning subject to serving the local working population only.
- 5.4. Developments that are neither 'Permitted in Principle' or 'Not Permitted' will be accessed on 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.

5.5. The subject site is located within the Dublin Airport Noise Zone C.

5.6. Relevant objectives under the Development Plan include the following:

- EEO1 – concerning the implementation of land use management plans, existing local area plans and masterplans for strategically important general employment lands.
- EEP2 – concerning maximising the potential of general employment lands for intensive employment uses where appropriate.
- EEO14 – encouraging sustainable design, permeability and pedestrian/cyclist friendly environments in general employment zoned areas.
- CIOSO6 – resist the loss of existing social and community facilities such as community centres and youth clubs or any sports facilities including playing fields, unless satisfactory alternatives are available.
- CIOSP8 – facilitate sports facilities.
- CIOSO13 – promote recreational facilities.

#### **5.7. Natural Heritage Designations**

5.8. The subject site is located over 6km to the west of Baldoyle Bay SAC (000199) and SPA (004016) and North Dublin Bay Special Area of Conservation (000206) and the North Bull Island SPA (004006). There is no connection to any European (Natura 2000) sites and no pathways.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

The main points of the grounds of appeal are as follows:

- The applicants specifically requested that a full / permanent permission rather than a further temporary permission be granted. The planning authority decision to grant only a temporary 5 year permission means a total of €26006 has been expended in planning fees in making 3 planning applications for identical proposals over 10 years. In 5 years time a new application will be

required and a further planning fee of €8669 paid. There is also additional cost in preparing the application.

- Wish to upgrade and install new attractions, but not feasible with the short period of consent.
- The use has been in operation for over ten years without any adverse impacts on traffic safety and convenience or on the integrity and potential of this estate to remain and develop as a business park rather than just a warehouse estate as conceived back in the 70s.
- There have been no complaints to the Planning Authority in respect of the enterprise during this period nor any enforcement proceedings. It is normal practice to utilise a temporary permission where there may be uncertainty regarding potential impacts of a proposal that can be assessed in the short term once the proposal is operational. There has therefore been enough time to carry out this interim assessment without having to go through another 5 years of uncertainty for the applicants.
- Applicant is anxious to enter into a more permanent lease arrangement on the property.
- Contend that the use is consistent with the zoning and general enterprise, and also consistent with sustainable development policies to provide employment and recreational uses.
- The proposed use was considered acceptable by the Planning Authority. In the estate there are a variety of commercial uses varying from traditional warehousing, manufacturing, retail, wholesale, offices, gym and a facility run by the Department of Justice.
- In terms of precedent, refer to reg. ref. D12A/0101 and D15A/0452 in DLR, and SD18A/0205 in South County Dublin. Reg. ref. F17A/0743 in Fingal had no restrictive condition.

## **6.2. Planning Authority Response**

- The planning authority previously assessed the application against the policies of the Fingal Development Plan 2023-2029. The subject site is

located within an industrial estate with the GE (General Employment) zoning. To grant a permanent use for indoor sports activities at the subject site would not accord with the GE General Employment vision and objectives of the Fingal Development Plan. Only a temporary approval, in this instance would be appropriate, having regard to the location of the development within an industrial estate, within which permitted uses include industry, road transport depots and warehousing and furthermore a temporary approval would be consistent with the previous temporary approvals on the site.

- An Bord Pleanála are requested to uphold the decision of the planning Authority.
- In the event that this appeal is successful, provision should be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

### **6.3. Observations**

- None received.

## **7.0 Assessment**

7.1. I propose to assess the appeal under the following headings:

- Principle of development; and
- Other Matters.

### **7.2. Principle of development**

7.2.1. The subject site is zoned 'GE' General Employment with the objective 'Provide opportunities for general enterprise and employment'. The vision for GE lands is to 'Facilitate opportunities for compatible industry and general employment uses including appropriate sustainable employment and enterprise uses, logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable and legible.'

7.3. The use sought for continuation on a permanent basis on the site, relates to indoor recreational use and specifically a play / trampoline centre. The use also includes an



ancillary café. The use is not listed as either permitted or not permitted in Development Plan. While restaurant/café use is listed, this is where such a use serves the local working population only, while the café situated in the subject site serves customers of the main recreational use on the site and is ancillary to that predominant function.

- 7.4. The Development Plan notes that where uses are neither permitted or not permitted, they will be assessed in terms of their contribution to towards the achievement of the zoning objective and vision and compliance with objectives/policies under the Development Plan.
- 7.5. The Planning Authority report states that the principle of the use is established and accepted, albeit on a temporary 5 year basis.
- 7.6. Two previous temporary 5 year consents have been granted for the use on the site (reg. ref. F19A/0009 & F13A/0439). The appellant contends that the operation of the use on the site for some 10 years without the generation of complaint indicates its acceptability on a permanent basis.
- 7.7. With respect to the Development Plan, this is clear that uses that are neither permitted or not permitted be assessed on their own merits against the zoning objective/vision and policies/objectives of the Development Plan. The use of the site for indoor recreation provides employment, with the appellant stating that there are 25 jobs situated within the Unit itself. The appellant also contends that the use is an enterprise use in accordance with the zoning vision for the lands. I concur with the appellant that the use does provide employment opportunity and does relate to an enterprise use, being a business that supports employment. In this sense, the use does contribute towards the zoning objective in my view. I also note that, with respect to the compatibility of the use with industry and general employment uses, the continual operation of the use on the lands for the past 10 years has not generated any conflicts in this regard, and this is supported by the lack of any objection from surrounding occupiers to the proposed continuation of the use on the site. I also note that objectives CIO6, CIO8 and CIO13 facilitate and resist the loss of recreational facilities.
- 7.8. The Planning Authority are unclear in their report why the temporary consent of 5 years is required, other than with general reference to the zoning of the lands and

that such a temporary consent is in keeping with previous consents for the site. In their response to the appeal, the Planning Authority state that:

- 7.9. *“To grant a permanent use for indoor sports activities at the subject site would not accord with the GE General Employment vision and objectives of the Fingal Development Plan. Only a temporary approval, in this instance would be appropriate, having regard to the location of the development within an industrial estate, within which permitted uses include industry, road transport depots and warehousing and furthermore a temporary approval would be consistent with the previous temporary approvals on the site.”*
- 7.10. However, the Planning Authority does not clearly outline why the use does not accord with the vision and objectives of the Fingal Development Plan. Indeed, the use does respond positively to the zoning objective and vision for employment and enterprise as I outline above, and the operation of the use on the site for the past 10 years or so, has indicated a general compatibility with the industrial and employment use of the area. The Planning Authority state that only temporary approval is appropriate with reference to permitted uses under the zoning such as industry, road transport depots and warehousing, however I note other more general employment and enterprise uses are in operation in the industrial estate which reflect the zoning for GE lands. I also note that there is also a different zoning under the Development Plan for ‘WD’ warehousing and distribution, which also permits road transport depots and warehousing, but does not permit enterprise centres. This indicates a distinction between the type of industry and employment uses that might operate in GE lands compared to WD lands in my view, where more general employment and enterprise uses would be less appropriate. In this sense it is worthy of note that the lands are zoned for general employment and not only for warehousing/distribution.
- 7.11. The Planning Authority refer to the previous consistency in approach in the application of condition no.2 to consents relating to the use of the site for indoor recreation (reg. ref. F19A/0009 & F13A/0439). This continues the temporary use in accordance with the status quo, rather than reflecting upon whether a permanent use can now be considered in light of the practical experience during the past 10 years of operation of the use. The Planning Authority also indicate that the temporary permission would allow the reestablishment of industry on the site in future, however there is no indication that further attempts to continue the recreational use on the site

would be resisted in future. There is also no uncertainty with respect to the planning policy context for the site that would perhaps merit a temporary consent with a view to assessing any change in policy approach to the lands. The Development Plan has been adopted in the past year and the site is zoned for general employment. The use has been carried out on the site for some 10 years and the Planning Authority was content for this to continue for a further 5 years. The use which generates 25 jobs, responds positively to the general employment and enterprise aims of the zoning objective and vision for the lands. The continual operation of the use on the site for the past 10 years or so also indicates a general compatibility with the industrial and employment zoning of the lands. It would also be possible for any change of use of the unit to industry to occur in future, where this was compatible with the Development Plan zoning, policies and objectives for the site at that time.

7.12. I am satisfied that there is no justification under the Development Plan to continue the temporary restriction upon the use for a further 5 years given the circumstances of the application, specifically concerning a use that has operated with permission and without conflict for some 10 years on the site and in light of the general employment zoning of the site.

7.13. Overall, I am satisfied that the use positively contributes towards the achievement of the zoning objective and vision and compliance with objectives/policies under the Development Plan.

**7.14. Other matters**

7.15. I note that the Planning Authority's Transport Planning Service states that the widths of both vehicular accesses are too wide and should be reduced (to a detail to be agree with the planning authority). The Planning Authority did not include a condition with respect to this matter due to the temporary nature of the use.

7.15.1. As I am recommending that the Board permit the permanent continued use of the site for indoor recreation, it is also appropriate in my view to require the vehicular accesses to be rectified to a state that is more appropriate to the use. Therefore, I have included a condition as requested by the Transport Planning Service at the Local Planning Authority.

7.15.2. I note that the Planning Authority response also requested the inclusion of a condition requiring development contributions in the event that the appeal was

successful. Given that I am recommending that the use be permanent, and not temporary, I agree that the use would now trigger a requirement for development contributions and I have included a condition regarding the same.

## **8.0 Recommendation**

- 8.1. Having regard to the nature of the conditions that are the subject of the appeal, I am satisfied that the determination by the Board, of the relevant application as if it had been made to it in the first instance, with attachment of said condition, would not be warranted and based on the reasons and considerations set out below, I recommend that the Board direct the Planning Authority under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended, to REMOVE Condition 2 and add conditions as set out below.

## **9.0 Reasons and Considerations**

Having regard to:

(1) the zoning of the site under 'GE' General Employment to 'Provide opportunities for general enterprise and employment',

(2) planning policies and objectives under Fingal County Development Plan 2023-2029,

(4) the existing pattern of development in the vicinity, and

(5) the planning history of the site,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously, or disproportionately, injure the amenities of the area or of property in the vicinity, would otherwise be acceptable in terms of pedestrian and traffic safety and convenience, and therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The widths of both of the vehicular accesses to the site shall be reduced to a detail to be agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of amenity and of traffic and pedestrian safety.</p>
2.	<p>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.</p> <p><b>Reason:</b> 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.</p>


I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Rachel Gleave O'Connor  
Senior Planning Inspector

04 March 2024

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	318883-24		
<b>Proposed Development Summary</b>	Permission for continuation of use for indoor sports activities. Temporary permission was granted for 5 years under reg. ref. F13A/0439 and further extended for 5 years under F19A/0009.		
<b>Development Address</b>	Unit 27, Airways Industrial Estate, Santry, Dublin 9		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	 No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>			Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			

		Threshold	Comment (if relevant)	Conclusion
No				No EIAR or Preliminary Examination required
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_