



An
Bord
Pleanála

Inspector's Report

ABP-320850-24

Development	Permission for construction of building to replace recently demolished fire damaged building for its previously permitted use as a car showroom, car storage facility, external car lift, workshop, signage, onsite motor factors, connection to necessary services together with all associated ancillary and incidental site works.
Location	Unit 10, Rosemount Business Park, Ballycoolin, Dublin 11, D11 WKW9
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW24A/0273E
Applicant(s)	Grasspoint Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party V Condition & Contributions
Appellant(s)	Grasspoint Ltd
Observer(s)	None
Date of Site Inspection	21 st January 2025
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1. The subject site relates to Unit 10, Rosemount Business Park, Ballycoolin, Dublin which is within an industrial estate. The surrounding area is defined by a mix of commercial and light industrial uses. The site located at the end of a cul de sac road. To the north of the site is DPD Ireland. To the east is an open field. To the south is Alltyres Ltd. On inspection of the site, the existing structure has been demolished and the site has been completely cleared. There are several cars parked on site the southwestern portion of the site. The site is level with the adjoining road. The boundaries of the site are defined by 2-metre-high palisade fencing.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a building, to replace a recently demolished fire-damaged building for its previously permitted use as a car showroom, car storage facility, external car lift, workshop, signage, onsite motor factors, and connection to necessary services. The total floor area of the proposed development is stated as 2,236sqm. The site has a stated site area of 0.442 hectares.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission on the 22nd of August 2024 subject to 10.no conditions. Of relevance to this appeal is conditions no.6 and no. 10 which are outlined below:

6. A minimum 5 % of the proposed car parking spaces on site shall be EV, i.e. Electric Vehicle, charging points from completion of the proposed development.

10. Prior to Commencement of development the developer shall pay the sum of €200,415.12 (updated at date of commencement of development, in accordance with changes in the Tender Price Index) to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments shall be agreed in writing with the planning authority prior to the commencement of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planner's Report forms the basis for the decision to grant permission. stating:
 - Principle of Development: The site is zoned 'GE' (General Employment) in the Fingal Development Plan 2023-2029, which aims to provide opportunities for general enterprise and employment. The proposed use as a car showroom and related facilities is permitted under this zoning.
 - Design: The proposed development is in keeping with the existing development in the area and would not detract unduly from the character or amenity of the adjoining development.
 - Financial Contributions: The developer is required to pay a financial contribution of €200,415.12 towards public infrastructure and facilities, with the phasing of payments to be agreed upon prior to the commencement of development
 - Conditions for Approval: The development must adhere to specific conditions, including agreement on materials and finishes, provision of EV charging points for 5% of parking spaces, and compliance with water and drainage requirements.
 - No concerns with respect to AA or EIA.
 - Subsequent letter dated 18th November 2024 highlighting breakdown of development contributions levy.

3.2.2. Other Technical Reports

- Transport Planning – No objection subject to condition, that 5 % of the proposed car parking spaces shall be EV charging points from completion of the proposed development.
- Water Services Section – No objections, subject to condition.

3.3. Prescribed Bodies

Uisce Eireann – No objection subject to service connection agreement.

3.4. Third Party Observations

None

4.0 Planning History

PA REF: FW22A/0275 – Refers to grant of permission (28.03.23) by the Planning Authority for the change of use of an existing meat processing plant to a car showroom, car storage facility, external car lift, workshop, minor amendments to the external elevations, new signage, onsite motor factors, and a modular freestanding shared working space building.

Notable conditions include:

3. The development shall be used solely for the purposes of a car showroom, car sales facility and workshop. The offices shall remain ancillary to the overall use of the site. Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended (or any provisions which may replace same), there shall be no change of use, extensions (including mezzanine extensions), subdivision or amalgamation of the buildings on site without a prior grant of planning permission having been received.

12. Prior to Commencement of development the developer shall pay the sum of €211,861.00 (updated at date of commencement of development, in accordance with changes in the Tender Price Index) to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments shall be agreed in writing with the planning authority prior to the commencement of development.

Note this contribution was rescinded by the Planning Authority stating that the change of use did not pose an intensification of the site.

PA REF: FW21A/0043 – Refers to grant of retention permission (26.05.21) for a single storey loading dock and stairwell door to northwest elevation, single storey plant room to southeast elevation and minor associated site works to existing meat processing facility.

5.0 Policy Context

5.1. National Guidelines

Climate Action Plan (2024)

Development Contributions - Guidelines for Planning Authorities (2013)

- General Development Contribution Schemes: Under section 48 of the Planning and Development Acts, planning authorities must draw up a development contribution scheme in respect of certain public infrastructure and facilities provided by, or on behalf of, the local authority that generally benefit development in the area. All planning permissions granted are subject to the conditions of the development contribution scheme in operation in the area of the planning authority.

Development Management – Guidelines for Planning Authorities (2007)

- Section 7.12 of the Guidelines provides guidance on planning conditions relating to development contributions. Any scheme may be the subject of an appeal where the applicant considers that the terms of the scheme were not properly applied. To help minimise unnecessary appeals, the planning decision should clearly set out how the relevant terms were interpreted and applied to the proposed development.
- Section 8.12 of the Guidelines refers specifically to appeals in respect of development contribution conditions and reiterates that an appeal against a contribution condition can only be made where the applicant contends that the terms of the contribution scheme have not been properly applied.

5.2. Development Plan

The Fingal Development Plan 2023 – 2029 is the relevant Development Plan for the subject site.

The subject site is zoned, 'GE' – where the zoning objective is, 'To provide opportunities for general enterprise and employment'

Chapter 5 – Climate Action

- Policy CAP1 (National Climate Action Policy): Support the implementation of national objectives on climate change including the national Climate Action Plan 2023 (CAP23), the National Adaptation Framework 2018 and the National Energy and Climate Plan for Ireland 2021–2030 and other relevant legislation, policy and agreements in relation to climate action.

Chapter 14 – Development Management Standards

- 14.17.10 Electric Vehicle Parking: To encourage the use of Electric Vehicles (EVs), developments shall provide the following minimum standards for EV charging points and infrastructure:
 - All multi-unit residential developments shall incorporate EV charging points at 20% of the proposed parking spaces and appropriate infrastructure (e.g. ducting) to allow for future fit out of a charging point at all parking spaces.
 - Non-residential development shall be required to provide functioning EV charging points at a minimum of 10% of all spaces and all other spaces shall incorporate appropriate infrastructure (ducting) to allow for future fit out of a charging point at all spaces.
 - Publicly accessible EV parking spaces should be clearly marked and be capable of communicating usage data with the National Charge Point Management System. EV parking spaces for accessible spaces should also be included in the development where these exist.
 - All other parking spaces, including in residential developments, should be constructed to be capable of accommodating future charging points as required.

5.3. The Fingal County Council Development Contribution Scheme 2021-2025

The Development Contribution Scheme refers to the basis for determination of contributions, 3no. categories/classes of development, unit of measurement and the associated rates of charge. The DCS also outlines exemptions and reductions in certain instances such as:

(q) Demolition and Rebuild: Where permission is granted to demolish in part or in full an existing building and replace with another, then the development contribution payable is to be calculated as follows:

- Where a contribution has been previously paid – the contribution will be levied on the increased floor area of the new build over the old.
- If no contribution was previously paid – reductions in respect of demolition work will be allowed, excluding structures exempt from contributions. Demolition

must be necessary to facilitate the proposed development. The Scheme does not provide for any rebate or refund in this regard.

5.4. Natural Heritage Designations

The site is not located within or adjacent to any designated Natura 2000 site.

5.5. EIA Screening

The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been lodged against two conditions attached to the planning authority's decision to grant permission. The grounds of appeal can be broadly summarised as follows:

- Condition 6: The planning authority requires that a minimum of 5% of the proposed car parking spaces on site be equipped with EV charging points. The appellant considers this request unreasonable given the nature of the business, which primarily involves vehicle retail and storage, not public or customer parking. The vast majority of the car park spaces on site would be occupied with vehicles for retail. The applicant is willing to provide two to three EV charge points and consider the 5% of the overall parking provision to be excessive.
- Condition 10: The planning authority has imposed a development levy of €200,415.12 to be paid by the developer. The appellant argues that a similar previous development on the same site was exempted from such levies, and therefore, the same criteria should apply to the current development. The appeal

includes supporting documents such as previous correspondence with Fingal County Council, which rescinded the development levy for a similar project, and other relevant materials.

6.2. Planning Authority Response

First response received dated 21st October 2024 outlining the following:

- EV Charging Points Requirement: A minimum of 5% of the proposed car parking spaces on site must be equipped with electric vehicle (EV) charging points upon completion of the development. However, The Transportation Planning Section has accepted the proposal to provide 2-3 electric vehicle charging spaces on site.
- Previous Application FW22A/0275: This application granted permission for the change of use of an existing meat processing plant to a car showroom and related facilities, with a financial contribution of €211,861 initially required but was later cancelled due to no substantial intensification of use.
- Current Application FW24A/0273E: This application granted permission for the construction of a building to replace a recently demolished fire-damaged building for use as a car showroom and related facilities.
- Development Contribution Scheme: The Fingal County Council Development Contribution Scheme 2021-2025 does not provide an exemption for the type of development proposed in FW24A/0273E, and no drawings were submitted to show the demolition, so the demolition and rebuild exemption was not applied.
- Requesting the Board that conditions remain unchanged and to uphold the decision of the Planning Authority.

Second response received dated 18th November 2024 outlining the following:

- A letter from the planning authority outlining how the development contributions were calculated.

6.3. Observations

None

7.0 Assessment

7.1. Introduction

- 7.1.1. This first party appeal has been brought to An Bord Pleanála under the provisions of section 139 of the Planning and Development Act 2000 (as amended) being an appeal made against a condition of permission and under section 48 (10) of the Planning and Development Act 2000 (as amended) being an appeal against a development contribution. Both will be discussed further below.
- 7.1.2. Section 139 of the Act, allows, where an appeal is brought against a decision of the planning authority to grant permission and only relates to a condition then, if the Board is satisfied having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted, in its absolute discretion, give the relevant authority such direction it considers appropriate relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions.
- 7.1.3. Section 48(10) (b) of the Act, makes provision for an appeal to be brought to the Board where an applicant for permission under section 34 considers that the terms of the relevant development contribution scheme have not been properly applied in respect of any condition laid down by the planning authority. An appeal in relation to the application of a development contribution, the Board will not determine the application as if it was made to it in the first instance and will only determine the matters under appeal, which is whether the terms of the scheme have been properly applied.

7.1.4. I consider the issues can be addressed under the following headings:

- Condition No.6 (EV Charging Points)
- Condition No.10 (Development Contributions)

7.2. Condition No.6 (EV Charging Points)

- 7.2.1. The grounds of appeal are seeking permission to omit condition No.6 of permission FW24A/0273E which requires, *“A minimum 5 % of the proposed car parking spaces on site shall be EV, i.e. Electric Vehicle, charging points from completion of the proposed development”*. I note the applicant is prepared to accept a requirement of 2 – 3 EV parking. The Transport Planning Section report on file recommended this condition and was subsequently included in the notification to grant permission.
- 7.2.2. I note section 14.17.10 (Electric Vehicle Parking) of the Fingal Development Plan 2023 – 2029 refers to, *“To encourage the use of Electric Vehicles (EVs), developments shall provide the following minimum standards for EV charging points and infrastructure: Non-residential development shall be required to provide functioning EV charging points at a minimum of 10% of all spaces and all other spaces shall incorporate appropriate infrastructure (ducting) to allow for future fit out of a charging point at all spaces”*.
- 7.2.3. The proposed development relates to non-residential development and based on the requirements of the plan, a minimum of 10% of EV spaces would equate to a requirement of 5.4 EV charging spaces that should be provided on site for customers and employees. This is based on a site layout plan of 54 car parking spaces.
- 7.2.4. Whilst the plan requires 10% EV charging to be provided on site, I note the permitted development relates primarily to vehicle retail and storage. Given the nature of the development, it is my opinion that a requirement of 5% EV charging spaces not reasonable given the quantum number of spaces (54) on site. This would equate to 2-3 EV spaces which the applicant has agreed to provide in their appeal submission. I consider the condition is necessary and a decision to keep the condition has been made in a manner consistent with the Climate Action Plan. Furthermore, I consider the

condition would help in achieving the climate action policies as set out in the Fingal Development Plan 2023 – 2029. Therefore, I consider condition no.6 should be attached to reflect a minimum of 5% of EV spaces.

7.3. Condition No.10 (Development Contributions)

- 7.3.1. The appellant is seeking permission to omit condition No.10 of permission FW24A/0273E which states, *“Prior to Commencement of development the developer shall pay the sum of €200,415.12 (updated at date of commencement of development, in accordance with changes in the Tender Price Index) to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments shall be agreed in writing with the planning authority prior to the commencement of development”*.
- 7.3.2. The applicant argues against the imposition of the development contribution outlined in Condition No.10. They highlight correspondence with Fingal County Council that a previous planning application on the same site (PA Ref: FW22A/0275) for a change of use of the building to a car showroom resulted in Fingal County Council rescinding their demand for development levies stating there was no intensification of use arising from the permitted permission. The applicant contends that the current development is identical in nature to the previous one and, therefore, the same criteria should apply, exempting them from the development levy.
- 7.3.3. I note the planning authority in their response to the appeal stated as the building is being replaced the Fingal Development Contribution Scheme 2021-2025 does not provide an exemption for the type of development proposed in application FW24A/0273E. Additionally, it is highlighted by the Planning Authority that no drawings were submitted to show the demolition, so the demolition and rebuild exemption was not applied.

- 7.3.4. I have had regard to the Fingal Development Contribution Scheme 2021-2025 which refers to demolition and rebuilding and states, *“where permission is granted to demolish in part or in full an existing building and replace it with another, the development contribution payable is to be calculated as follows; If a contribution has been previously paid, the contribution will be levied on the increased floor area of the new build over the old. If no contribution was previously paid, reductions in respect of demolition work will be allowed, excluding structures exempt from contributions. Demolition must be necessary to facilitate the proposed development. The Scheme does not provide for any rebate or refund in this regard.*
- 7.3.5. On inspection of the site, the application for demolition works of the existing structure have already taken place and I note the applicant did not apply for retention permission for these works. I acknowledge the circumstances of the applicant but unfortunately in my opinion the contribution scheme is clear to me that an exemption from contributions refers to when, *“If a contribution has been previously paid, the contribution will be levied on the increased floor area of the new build over the old”*. I note the applicant has not provided any detail/drawings of the previous building on site or indeed any evidence that contributions have been previously paid on this site. As such, I am unable to determine if a reduction in contributions can be applied. Therefore, I consider the contribution scheme has been applied correctly in this case.

8.0 Appropriate Assessment Screening

- 8.1. Refer to Appendix 2. Having regard to nature, scale and location of the proposed development and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation (1)

9.1. I recommend that condition No. 6 be ATTACHED, as set out hereunder.

10.0 Reasons and Considerations

10.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended,

(a) To ATTACH condition number 6 and the reason therefor as follows:

6. A minimum 5% of the proposed car parking spaces on the site for customers and employees shall be EV. i.e. Electric Vehicle charging points.

Reason: In the interest of sustainable transport.

Reasons and Considerations:

Having regard to the nature of the development, it is considered the provision of EV charging points is reasonable and necessary and a decision to attach the condition has been made in a manner consistent with the Climate Action Plan and the climate action policies as set out in the Fingal Development Plan 2023 – 2029.

11.0 Recommendation (2)

11.1. I recommend that condition No. 10 be ATTACHED, as set out hereunder.

12.0 Reasons and Considerations

12.1. Having regard to:

- a) the Fingal County Council Development Contribution Scheme 2021-2025,
- b) section 48 of the Planning and Development Act 2000, as amended,
- c) the nature of the proposed development,
- d) the information provided.

The Board, in accordance with section 48 of the Planning and Development Act 2000 (as amended) considered that the terms of the Fingal County Council Development Contribution Scheme 2021 – 2025 for the area has been properly applied in respect of Condition No. 10 and directs the said Fingal County Council to ATTACH the said condition.

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.

Gerard Kellett
Planning Inspector
6th February 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320850		
Proposed Development Summary	Permission for construction of building to replace recently demolished fire damaged building for its previously permitted use as a car showroom, car storage facility, external car lift, workshop, signage, onsite motor factors, connection to necessary services together with all associated ancillary and incidental site works.		
Development Address	Unit 10, Rosemount Business Park, Ballycoolin, Dublin 11, D11 WKW9		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	√
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√		No further action required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	√	Screening determination remains as above (Q1 to Q4)	
Yes			

Inspector: _____

Date: _____

Appendix 2

AA Screening

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The site is not located within or adjacent to any designated Natura 2000 site.

Having considered the nature and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- The nature of the development.
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.