EIA Pre-screening – EIAR Not Submitted

An Bord Pleanála Case Reference	ABP-305242-19
Development Summary	Referral - change of use

1. Does the proposed development constitute an EIA project? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	
	No	✓

2. If YES, does the proposed development, or any part of it, fall within a class of development set out in Part 1 or Part 2, Schedule 5 of the Planning and Developmen Regulations?

	Tick	Threshold	Comment (if relevant)	Conclusion
No	✓	N/A		No EIAR or Preliminary Examination required
Yes		If YES, tick one of the following:		
		Exceeds / Is equal to / No Threshold		EIAR required
		Sub threshold		Preliminary Examination required (Issue letter to EPA if IED/ IPC/ Waste licence)

3. If Preliminary Examination is required, has Schedule 7A information been submitted?	Yes No N/A

EO/ SEO _____ Date: _____

Lita Clarke Jennifer.

From: Bord
Sent: Tuesday 24 September 2019 16:22
To: procbordemail
Subject: FW: ABP-305242-19, FS5W/13/19
Attachments: FS5W_13_19 Fingal Response.pdf

From: Sasha Tuke [mailto:Sasha.Tuke@fingal.ie]
Sent: Tuesday 24 September 2019 15:53
To: Bord <bord@pleanala.ie>
Cc: blanch planning <blanch.planning@fingal.ie>
Subject: ABP-305242-19, FS5W/13/19

Hi,

Please find attached the Planning Authority's response to the abovementioned appeal. The original is being sent registered post to your offices.

Kind regards,

Sasha Tuke ¦ Staff Officer
Planning and Strategic Infrastructure Department¦Fingal County Council¦Grove Road¦Blanchardstown¦Dublin 15¦D15 W638¦Phone 01 870 8433

25 BLIANA YEARS | Comhairle Contae Fhine Gall Fingal County Council

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teachtaireacht seo , n? aon iat?n , a th?inig chun cinn mar thoradh ar an tarchur r?omhphoist . T? an teachtaireacht cuardaithe ag bogearra? Frithv?reas

Comhairle Contae Fhine Gall
Fingal County Council

Your Ref: ABP-- 305242-19
Our Ref: FS5W/13/19

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1.

FAO: Mark Lawlor

Date: 24 September 2019

Re: Whether the change of use of Unit 10 from a car sales premises for the sale of leasing or display for the sale or leasing of motor vehicles to use for the sale of furniture is or is not development or is or is not exempted development.
Location: Unit No. 10 North Park North Road, J5 M50 Finglas Dublin 11, D11 R761.

Dear Sir/Madam,

I refer to your correspondence received 30/08/19 regarding the above appeal.

An Bord Pleanála are respectfully referred to the decision of the Planning Authority dated 26th July 2019 and associated Planning Officer's report which sets out the particulars of this referral under Section 5 of the Planning and Development Act 2000 (as amended).

The Planning Authority has reviewed the documentation submitted by Hughes Planning and Development Consultants on behalf of the Applicants, Killian Coyle and Bronwen Coyle, as submitted to An Bord Pleanála for review under the provisions of Section 5 (2)(a) of the Act.

Notwithstanding the documentation submitted, including the report prepared by TPS Moran and Associates, the Planning Authority remains of the view that the change of use from that permitted to use for general retailing is a factual change of use and this change of use would raise material planning considerations including planning policy in relation to the location of retail development as set out in the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment Community and Local Government 2000 (as amended) and as established in the zoning of land for particular purposes as prescribed in the Fingal Development Plan 2017-2023. A determination that the use of this structure for general retailing is exempt development

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would furthermore have significant potential to impact on neighbouring property and would have potential to give rise to implications for traffic safety, having regard to the inadequacy of car parking within the control of the Applicants, thereby endangering public safety by reason of a traffic hazard or obstruction of road users.

Accordingly, the Planning Authority requests that An Bord Pleanála, following review, upholds the decision of the Planning Authority with regard to this referral under Section 5 of the Act.

Yours faithfully,

Colm McCoy
Senior Planner

Comhairle Contae Fhine Gall
Fingal County Council

AN BORD PLEANÁLA
LDG-
ABP-
26 SEP 2019
Fee: € Type:
Time: By: Reg.

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Our Ref: FS5W/13/19

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Notwithstanding the documentation submitted, including the report prepared by TPS Moran and Associates, the Planning Authority remains of the view that the change of use from that permitted to use for general retailing is a factual change of use and this change of use would raise material planning considerations including planning policy in relation to the location of retail development as set out in the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment Community and Local Government 2000 (as amended) and as established in the zoning of land for particular purposes as prescribed in the Fingal Development Plan 2017-2023. A determination that the use of this structure for general retailing is exempt development

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would furthermore have significant potential to impact on neighbouring property and would have potential to give rise to implications for traffic safety, having regard to the inadequacy of car parking within the control of the Applicants, thereby endangering public safety by reason of a traffic hazard or obstruction of road users.

Accordingly, the Planning Authority requests that An Bord Pleanála, following review, upholds the decision of the Planning Authority with regard to this referral under Section 5 of the Act.

Yours faithfully,

Colm McCoy
Senior Planner

Planning Report

Section 5 Application - Declaration of Exempted Development

Change of Use

Unit 10 North Park, North Road, J5 M50, Finglas, Dublin 11

July 2019

Hughes Planning & Development Consultants

70 Pearse Street, Dublin 2
+353 (0)1 539 0710 – info@hpdc.ie – www.hpdc.ie

1.0 Introduction

Hughes Planning and Development Consultants, 70 Pearse Street, Dublin 2 have prepared this report to accompany an application for a Declaration of Exempted Development, on behalf of Kilian Coyle and Bronwen Coyle, in relation to proposed works at Unit 10 North Park, North Road, J5 M50, Finglas, Dublin 11, D11 R761, which comprises a change of use from a car sales premises to use as a furniture shop.

This report, which should be read alongside the enclosed traffic survey prepared by Michael Moran of TPS Ireland, sets out the nature and extent of the proposal and the planning rationale for these works to be deemed exempted development. The question before the Planning Authority is as follows:

"Whether the change of use of Unit 10, North Park, North Road, J5 M50, Finglas, Dublin 11, D11 R761, from a car sales premises for the sale or leasing, or display for the sale or leasing of motor vehicles to use for the sale of furniture at the former Joe Duffy, Volkswagen Motors constitutes development and whether this change of use constitutes exempted development or not?"

We would submit, from the outset, that the works which will take place at Unit 10, North Park, J5, Finglas, Dublin 11, constitute exempted development pursuant to Class 14(a) Part 1 of Schedule 2 'Exempted Development – General' within the Planning and Development Regulations 2001-2019 (as amended). The proposed development includes all associated and ancillary site works also.

2.0 Site Description

The subject site is situated within North Park in Finglas and is located approximately 0.5 kilometres from the M50 (Junction 5) which provides motorway access to all of the main arterial routes leading to Dublin, to Dublin Airport, the Dublin Port Tunnel and the M1 motorway. It is noted that a large warehouse building to the west of the subject site is occupied by Audi North Dublin, furthermore, other occupiers in the locality include Denis Mahony Toyota Lexus, U store it, Awesome Walls and Fleetwood Paints. The property was initially occupied by a furniture showroom for circa 2.5 years, up until the end of 2008. Following on from this, in 2009 planning permission was granted which permitted a temporary change of use from industrial use to a motor trade site including internal alterations and was occupied by Audi North Dublin for car sales & service facilities for a three-year period. The subject unit is currently vacant and traded as Joe Duffy, Volkswagen up until December 2018.

Figure 1.0 Aerial view, showing the locational context of the subject site, outlined in red

Figure 2.0 Existing front and side elevation of Unit 10 North Park.

3.0 Planning History

Upon reviewing the Fingal County Council Planning Register the following planning applications relevant to the subject site at Unit 10 North Park, J5 M50, Finglas, Dublin 11.

Reg. Ref. FW09A/0155

Planning permission granted by Fingal County Council on 16th December 2009 for development at Unit 10 North Park, Junction 5 M50, North Road Finglas, Dublin 11 consisting of the following: change of use from industrial use to a motor trade site which shall include internal alterations for a new 15 vehicle display area, workshop, wash/valet, staff facilities, customer lounge, reception and ancillary offices at ground floor along with used 62 vehicle display and customer toilets at first floor. Alterations to the existing car parking layout to segregate customer parking and internal parking and other ancillary works. Addition of 2 no. building mounted internally illuminated Audi and rings logo (3.3m x 2m) to north and east elevation, 1 no. building mounted internally illuminated dealer name module (10m x 0.75m) to east elevation. Addition of 2 no. building mounted non illuminated advertising boards to north elevation (size27.8m x 6.9m) and east elevation (size 11.1m x 6.9m)

Reg. Ref. FW10A/0202

Planning permission granted by Fingal County Council on 4th July 2011 for development at the vacant site adjacent to Unit 10, North Park. The development is for the construction of a new 2,638 sqm Audi motor trade facility. Comprising of a 15 no. vehicle Audi showroom at ground floor and 3 no. vehicle Audi showroom at first floor along with workshop, parts department, 4 no. wash/valet bays and associated offices/staff facilities. The proposals include for a 70 no. vehicle illuminated external used display area, 12 no. demonstrator vehicle spaces, 60 no. customer parking bays, 18 no. staff parking bays and 35 no. vehicle compound/storage bays. Corporate signage to include 2 no. freestanding illuminated pylon signage and illuminated building mounted name module signage (7.2 x 0.6m) to south and north

elevations and illuminated building mounted Audi Logo signage (3.3 x 1.15m) to north and east elevations. Customer site access is to be from the existing estate road (west boundary) adjacent to unit 10 with compound access from the estate road adjacent to existing office unit (south boundary).

The decision of Fingal County Council to grant permission subject to conditions was subject to a first party appeal to An Bord Pleanála in relation to Condition No. 11 which relates only to the issue of Development Contributions and states the following:

11. That the developer shall pay the sum of €171,470 to the Planning Authority in respect of the proposed Metro West Scheme. This contribution shall be paid prior to the commencement of development or in such a manner as may otherwise be agreed un writing with the Planning Authority. The rate of contribution payable shall be that pertaining to the particular year in which implementation od the planning permission commenced. The Supplementary Development Contribution Scheme provides for an annual increase in the level of contribution payable, as outlines in the Scheme, by a factor of 5% compound interest per annum. The levels of contribution will be reviewed annually on the 1st January each year during which the scheme is in force, to take account of the aforementioned increase.

Reg. Ref. FW13A/0032

Planning permission granted by Fingal County Council on 23rd September 2019 for a permanent change of use of unit 10 from an industrial use to a motor trade/sales use which shall include internal alterations to provide for a new 18 vehicle display area, workshop, wash/valet, staff facilities, customer lounge, reception and ancillary offices at ground floor along with a 68 vehicle used display at first floor. The proposal includes the addition of 2 no. building mounted internally illuminated corporate logo signs(3.0m x 3.0m) to the north and east elevations, 2 no. building mounted internally illuminated dealer name module signs (6.65m x 1.5m) to the north and east elevations. 1 no. free standing illuminated entrance pylon sign (4.5 x 1.624m) and 1 no. freestanding illuminated directional pylon signs (2.022 x 1.0m). A temporary permission for motor trade/sales use, for a period of three years, was granted previously under Reg. Ref :FW09A/0155.

It is noted that 6 no. conditions were attached to the above grant of permission under Reg. Ref. FW13A/0032, with condition No. 6 being of particular note stating the following:

2. The entire premises shall be used as a single development for the purposes of a car sales showroom, with ancillary workshop, parts department, wash/valet bays, offices/staff facilities and shall not be subdivided or leased/sold separately.

~~This condition is significant as it restricts the use of the subject unit, Unit 10 North Park,~~ Finglas as a car sales showroom.

A third-party appeal was subsequently submitted to An Bord Pleanála (PL06F.242022) on behalf of Audi North Dublin, North Park, North Road, Finglas, Dublin 11 in relation to the decision of Fingal County Council to grant planning permission for an application for a permanent change of use. An order was made by the Bord on 24th September 2013 which upheld the decision of Fingal County Council and granted permission for the above application subject to compliance with 5 no. conditions.

It is important to note that in their determination of the above appeal, the Bord did not attach any onerous conditions to the grant of permission which restricted the use of the subject unit in anyway.

Reg. Ref. FW18A/0015

Planning permission granted by Fingal County Council on 24th April 2018 for development at Unit 10 North Park, Junction 5 M50, North Road, Finglas, Dublin 11 which consisted of the following: provision of a new mezzanine floor 191 sq.m providing office and customer zone associated with the existing motor trade showroom along with changes

to the north and east elevations including change of cladding colour and addition of a new curtain walling.

We note that the above permission has not been implemented.

4.0 Planning Context

The Fingal County Council Development Plan 2017-2023 is the relevant statutory development plan for the subject site.

4.1 Zoning

The subject site is zoned Objective 'GE' – General Employment in the Fingal Development Plan 2017-2023. The objective of the 'GE' zoning is to 'provide opportunities for general enterprise and employment'. The vision for lands subject to the 'GE' zoning objective is as follows:

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.

The zoning matrix included in the Development Plan indicates 'permitted' and 'not permitted' uses in 'General Employment' zones. Permitted in principle uses are generally acceptable subject to the normal planning process and compliance with the relevant policies and objectives, standards and requirements set out in the Plan. These Permitted in Principle uses include the following:

Builders Provider/Yard, Civic Waste Facility, Enterprise Centre, Food, Drink and Flower Preparation/Processing, Fuel Depot/Fuel Storage, High Technology Manufacturing Industry – General Industry – Light Logistics, Office Ancillary to Permitted Use, Open Space, Petrol Station, Research and Development, Restaurant/Café, Retail - Local < 150 sqm nfa, Road Transport Depot, Sustainable Energy Installation, Telecommunications Structures, Training Centre, Utility Installations, Vehicle Sales Outlet -Small Vehicles, Vehicle Sales Outlet -Large Vehicles, Vehicle Servicing/Maintenance, Garage Warehousing, Waste Disposal and Recovery, Facility (excluding High Impact), Wholesale.

It is considered that the proposed development is not a sensitive use and benefits from being located within close proximity to the M50 motorway.

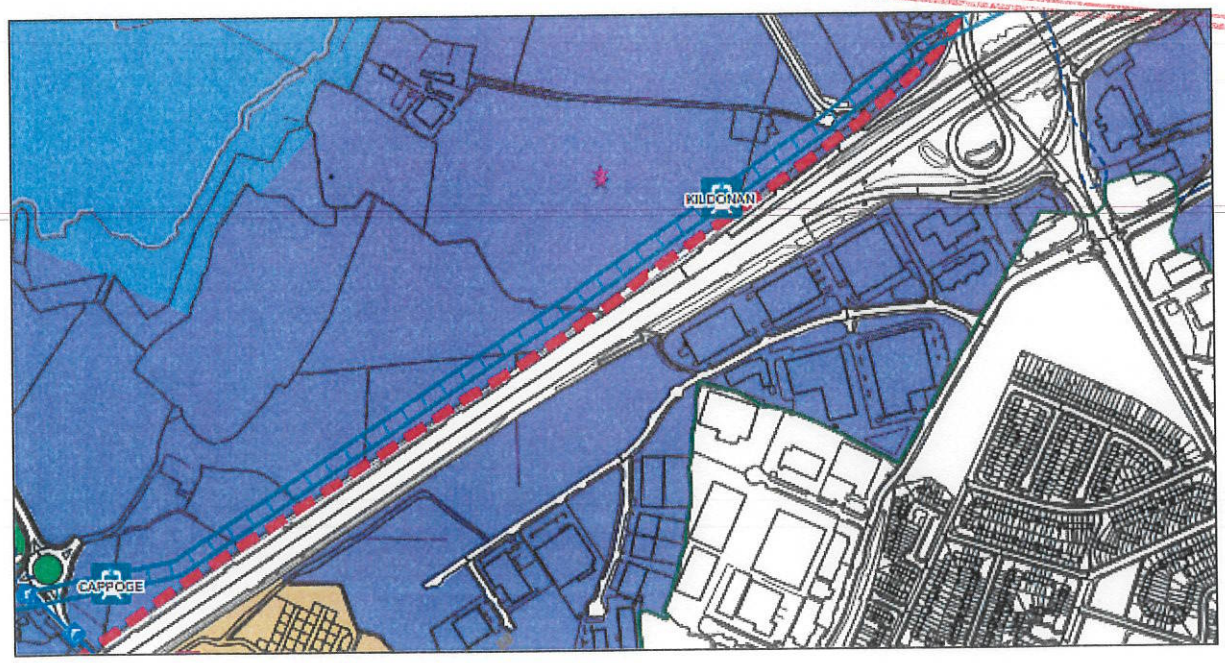

Figure 3.0 Extract from Sheet 12 of the Fingal County Development Plan 2017-2023 with the subject site outlined in red. The subject unit is zoned Objective 'GE' – General Employment.

The total gross floor area of the subject unit is 3,510 sq.m, however it is proposed that approximately 15% (536.5 sq.m) of the unit will be allocated to office and storage facilities, thus equating to a total retail floor space of 2983.5 sq.m.

The maximum car-parking requirements are outlined in Table 12.8, Chapter 12 of the Fingal County Development Plan 2017-2023. In reference to this table, we note that a maximum of 1 no. car-parking space is required per 30sq.m (GFA) of retail floor space, meaning that a maximum of 99 no. car-parking spaces to serve the proposed retail unit are required. We emphasize that these are maximum and not minimum requirements. The proposed development will provide for a total of 38 no. car-parking spaces, whilst this quantum falls short of the maximum requirement, it can be sufficiently demonstrated that the proposed change of use will not adversely affect the efficiency of the surrounding road network, key junctions and interchanges and that traffic volumes can be accommodated. Please see Appendix A of this report, which contains a brief transport report prepared by TPS M Moran & Associates and indicates that the car sales and car showroom use generates significantly more daily and peak hour trips to that of the proposed furniture retail unit.

Furthermore, in comparison to the motor trade, a furniture retail unit is likely to be quieter with fewer customers during week days and with added trade at weekends including Sundays and Bank Holidays when the majority of business within the North Park Business Park are closed. Thus, we would conclude that there would be an adequate amount of car-parking spaces within the Business Park to accommodate additional customers at these times. The nature of furniture stores typically requires delivery by stores own delivery vehicles, thus we note that the proposed development will make adequate provision for those opting for home delivery of goods other than by private car. In relation to the existing access and delivery arrangements, these were considered adequate to serve a car showroom, thus we see no reason to suggest that they would not be sufficient to serve a retail/shop use.

3.0 Proposed Development

The applicant is seeking a Section 5 Declaration for a change of use of the existing vacant commercial unit, previously in use as a car sales & service outlet to use which included the sale of new & used cars, car parts and care products, to use for the sale of furniture. We note that 15% of the unit will be allocated for ancillary office facilities and storage.

4.0 Basis of Exemption

It is submitted that the proposed change of use constitutes development that is exempted development. This submission is based on the development's compliance with both Class 14(a), Part 1 of Schedule 2 'Exempted Development – General' and Article 9 of the Planning and Development Regulations 2001 (as amended), both of which will be outlined in the following sections.

Development

With regards to current planning legislation, we note the following:

Under Section 2(1) *'Interpretation'* of the Planning and Development Act 2000 (as amended) states:

'In this Act, except where the context otherwise requires'-

> *'Development"* has the meaning assigned to it by Section 3 …
>
> *'Works" are interpreted as including "any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure'.*

Section 3 (1) of the Planning and Development Act 2000 (as amended) states:

> *'In this Act, 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land'.*

The proposed change of use is considered to constitute development.

Section 32(1)(a) of the Act states that planning permission shall be required in respect of any development of land, not being exempted development.

Section 4 (1) sets out various forms and circumstances in which development is exempted development for the purposes of the Act.

Section 4 (2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001 (as amended).

Article 5(1) includes definitions for exempted development and includes a definition of a shop.

'Shop' means a structure used for any of all of the following purposes, where the sale, display or service is principally to visiting members of the public-

(a) for the retail sale of goods
(b) as a post office
(c) for the sale of tickets or as a travel agency
(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and "wine" is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,
(e) for hairdressing
(f) for the display of goods for sale
(g) for the hiring of domestic or person
(h) as a laundrette or dry cleaners
(i) for the reception of goods to be washed, cleaned or repaired but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or RL 06F.RL3539 Inspector's Report Page 9 of 14 intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies.

Article 6 of the Regulations states:

'6(1) Subject to article 9, development of a class specifies in column 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specifies in column 2 of the said Part 1 opposite the mention of that class in the said column 1'

In considering the above, it is submitted that the proposed use of the subject unit is as a retail shop. The definition of a shop does not include the sale of or leasing of motor vehicles. Thus, we are of the opinion that the proposed change of use would be material in planning terms and would constitute 'development' within the meaning of Section 3(1) of the Act.

Exempted Development

Having established that the proposed change of use constitutes development within the meaning of the Planning and Development Act 2000 (as amended), we now refer to Article 6(1) of the Planning and Development Regulations 2001-2019 (as amended), and in particular to Class 14(a) of Part 1 Schedule 2: 'Exempted Development – General', which states that the change of use of a premises from the sale

or leasing, or display for sale or leasing of motor vehicles, to use as a shop shall be exempted development for the purposes of the Act.

Class 14 relates to 'change of use' and includes the following:

(a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop.

In this case, the proposed development comprises a change of use of Unit 10, North Park, J5 M50, Finglas, Dublin 11 from a car sales premises for the sale or leasing, or display for the sale or leasing of motor vehicles to use for the sale of furniture. We note that there are no specific conditions listed within Class 14(a), Part 1, Schedule 2 of the Regulations to which the proposal has to adhere to.

Article 9

Article 9 lists the circumstances in which development that would be classified as exempted under Article 6 is not exempted. Specifically, we note that Article 9 (1)(a) states: -

"(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

It is noted that the proposed development does not contravene a condition attached to a permission under the Act.

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

No amendments are proposed to the existing access.

(iii) endanger public safety by reason of a traffic hazard or obstruction of road users.

The proposed change of use will not in endanger public safety by reason of a traffic hazard or obstruction. We note that the applicant has procured the services of TPS M Moran & Associates, Traffic and Transportation Planning Consultants, to prepare a report which assess the difference in the likely extent of daily and peak trips generated by the historic car sales use and the proposed furniture sales use within the subject unit. These operations have been reviewed within the Trip Rate Information Computer System (TRICS) 2019(a) land use database. This assessment concludes that the previous car sales and car showroom use generates significantly more daily and peak hour trips than that of the proposed furniture shop. Thus, it is not foreseen that the proposed change of use will have any material impact on the operation of the adjacent road network. For full details please refer to the traffic report prepared by TPS M Moran & Associates with is contained within Appendix A of this report.

except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of Comment [i37]: Amended by article 3(b) of S.I. No. 464/2011 – European Communities (Amendment to Planning and Development Regulations) Regulations 2011 Comment [i38]: Inserted by article 4 of S.I. No. 454/2011 – Planning and Development (Amendment) (No. 2) Regulations 2011 Comment [i39]: Substituted by article 7 of S.I. No. 584/2011 – European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011 Comment [i40]: Inserted by article 7 of S.I. No. 584/2011 – European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011 Comment [i41]: Inserted by article 3 of S.I. No. 219/2013 – Planning and Development (Amendment) Regulations 2013 Comment [i42]: Inserted by article 3 of S.I. No. 219/2013 – Planning and Development (Amendment) Regulations 2013 29 a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

We note that the above restriction is not applicable to the proposal to which this application pertains. The proposed development only relates to the change of use ~~of 1 no. unit~~.

(iv) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

It is submitted that the proposal will not comprise the carrying out of works under a public road.

(v) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

It is not considered that the proposed development will have any impact upon the character of a landscape, view or prospect of special amenity value or special interest.

(vi) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

We note that the proposal does not consist of the excavation, alteration or demolition of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest.

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this 30 provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

The proposed development will not comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places.

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

It is considered that the proposed use of the subject unit will not have an effect on the integrity of a European Site, therefore an appropriate assessment is not required.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

The proposal will not have an adverse impact on an area designated as a natural heritage area.

(vii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

We note that the proposed development will not comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

(iv) *consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

In response to the above, it is submitted that the proposed development will not consist of the demolition of a building or structure that would restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or structure would remain available for use.

(v) *consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility*

The fencing or enclosure of any land is not proposed as part of the development to which a Section 5 Declaration is sought.

(vi) *obstruct any public right of way,*

The proposal relates only to a change of use and will not obstruct any public right of way.

(vii) *further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,*

The subject unit is not located within an architectural conservation area or an area specifies as an architectural conservation area in the Fingal County Council Development Plan 2017-2023.

Accordingly, we consider that subject to Article 9 of the Regulations, that the proposed development is exempt from the requirement to obtain planning permission.

5.0 Precedent

Our opinion as to the exempt status of the proposed change of use at Unit 10, North Park is further informed by the following Section 5 Declarations issued by An Bord Pleanála.

Ref No. 06F. RL3539 Whether the change of use from use as a car sales premises to use as a shop unit is or is not development or is or is not exempted development.

An order on the above question was delivered on 28th August 2018 by An Bord Pleanála which states that:

> *'that the change of use from the sale and display for sale of motor vehicles to use as a shop at the former Tom Walsh Motors, Grange Road, Baldoyle, Dublin is development and is not exempted development.'*

Despite the above determination of the Bord, we would highlight the following positive commentary from the Inspector's Report, which concluded that the change of use of the above property for the sale or leasing, or display for sale or leasing of motor vehicles, to use as a shop is development and is exempted development.

'In this respect, I would refer the Board to Article 6(1) of the Regulations and, in particular, to Class 14(a) of Part 1 of Schedule 2: 'Exempted Development – General' of the Regulations, which states that development consisting of the change of use of a premises from the sale or leasing, or display for sale or leasing of motor vehicles, to use as a shop shall be exempted development for the purposes of the Act. Accordingly, I am satisfied that, subject to Article 9, the development is exempted development.'

'The Planning Authority consider that the new use would result in intensification. While this may be so and consequently an increase in traffic entering and exiting the site may arise, it is not considered that such would give rise to a traffic hazard. There are adequate sightlines available and access is available from the road network with ghost islands and road markings.'

'Regarding parking requirements, the Planning Authority refer to a requirement for 137 parking spaces based on 1 space per 20 sq.m. Based on my site visit, this would likely be double that which currently exists on site. I note that by reference to Table 12.8 of the current Fingal Development Plan (2017-2023), the standard of 1 car space per 20 sq.m is a maximum requirement. I also note that Objective DM114 requires paid parking for new retail development with more than 50 car spaces. In addition, the site is located close to Clongriffin Dart station and is served by a bus route. The availability of public transport would serve to balance the demand of parking requirements. Therefore, on the basis of the foregoing, I am not satisfied that RL 06F.RL3539 Inspector's Report Page 12 of 14 it has been demonstrated that the proposed change of use would give rise to a deficit of car parking, thereby resulting in a traffic hazard or the creation of an obstruction to road users.'

Similar to the above example, it is considered that the proposed change of use at Unit 10, North Park, will not give rise to a traffic hazard, additionally given the nature of the use we consider that the quantum of car-parking spaces provided is sufficient to meet expected demand.

6.0 Conclusion

The question before the planning authority is as follows:

"Whether the change of use of Unit 10, North Park, North Road, J5, Finglas, Dublin 11, D11 R761, from a car sales premises for the sale or leasing, or display for the sale or leasing of motor vehicles to use for the sale of furniture at the former Joe Duffy, Volkswagen Motors constitutes development and whether this change of use constitutes exempted development or not?."

We submit that the proposed change of use is exempt pursuant to Class 14(a) of Schedule 2 Part 1 and Article 9 of the *Planning and Development Regulations 2001 (as amended)*. Accordingly, we request a declaration to this effect from Fingal County Council under Section 5 of the *Planning and Development Act 2000 (as amended)*.

Should you have any queries or require any further information, please do not hesitate to contact the under signed.

Yours sincerely,

Kevin Hughes MIPI MRTPI
For HPDC Ltd.

Appendix A

Traffic Assessment Prepared by TPS M Moran & Associates, Traffic and Transportation Planning Consultants.

TPS M Moran & Associates

2 The Burrows
Calverstown
County Kildare

Traffic and Transportation Planning Consultants
Mb: 0874175190

Mr Kevin Hughes
Hughes Planning & Development Consultants
70 Pearse Street
Dublin 2

119-A41/MJM/02
26th June 2019

Dear Kevin

Proposed Change of Use at Unit 10, North Park, Finglas, Dublin 11.

Introduction.

Thank you for sending us details of the above, which is soon to lodged with Fingal County Council for a change of use planning permission from a car sales and car showroom to a furniture sales land use.

Extent Of Trip Generation.

The existing building footprint has a gross floor area of some 3510sq metres of which 1755sq metres is at ground level with a further 1755sq metres at first floor. 38 car parking spaces are assigned to this building footprint which are located at surface level adjacent to the building.

Historically this building operated as a car sales and car showroom land use. It is now proposed to seek planning permission for a change of use from a car sales and car showroom to a furniture sales outlet.

In order to assess the difference in the likely extent of daily and peak trips generated by the historic car sales and the proposed furniture sale land use we have reviewed these operations within the TRICS 2019(a) land use database (Trip Rate Information Computer System).

TRICS is a land use database that uses recorded traffic survey information to estimate traffic and trip generation for planning purposes. This database consists of over 7500 traffic surveys, which therefore yield empirical rather than theoretical generation figures.

When this building is reviewed within the TRICS 2019(a) for the historic car sales and the proposed furniture sales outlet, the extent of these daily trips is shown within Table 1.0 and Table 2.0 below.

VEHICLES — Estimate TRIP rates ☑

Survey Start/End: 07:00-22:00 — Estimated TRIP rate value per 3510 SQM

Trip rate parameter range available: 45 - 6623 (units: sqm) — Estimated TRIP rates shown in shaded column (for 3510 SQM)

TRIP RATE VALUE PER 100 SQM	ARRIVALS Total Rate: 6.561 Peak: 08:00-09:00			Total 230.291	DEPARTURES Total rate: 6.916 Peak: 16:00-17:00			Total 242.763	TOTALS Total rate: 13.477 Peak: 16:00-17:00			Total 473.054
	No. Days	Ave. GFA	Trip Rate	Estimated Trip rate	No. Days	Ave. GFA	Trip Rate	Estimated Trip rate	No. Days	Ave. GFA	Trip Rate	Estimated Trip rate
00:00-01:00												
01:00-02:00												
02:00-03:00												
03:00-04:00												
04:00-05:00												
05:00-06:00												
06:00-07:00												
07:00-08:00	26	1773	0.416	14.617	26	1773	0.054	1.903	26	1773	0.470	16.520
08:00-09:00	33	1745	0.941	33.033	33	1745	0.316	11.092	33	1745	1.257	44.125
09:00-10:00	34	1720	0.696	24.424	34	1720	0.562	19.743	34	1720	1.258	44.167
10:00-11:00	34	1720	0.636	22.323	34	1720	0.525	18.423	34	1720	1.161	40.746
11:00-12:00	34	1720	0.580	20.343	34	1720	0.585	20.523	34	1720	1.165	40.866
12:00-13:00	34	1720	0.604	21.183	34	1720	0.621	21.783	34	1720	1.225	42.966
13:00-14:00	34	1720	0.590	20.703	34	1720	0.557	19.563	34	1720	1.147	40.266
14:00-15:00	34	1720	0.557	19.563	34	1720	0.614	21.543	34	1720	1.171	41.106
15:00-16:00	34	1720	0.532	18.663	34	1720	0.622	21.843	34	1720	1.154	40.506
16:00-17:00	34	1720	0.516	18.123	34	1720	0.766	26.884	34	1720	1.282	45.007
17:00-18:00	33	1745	0.351	12.311	33	1745	0.728	25.537	33	1745	1.079	37.848
18:00-19:00	31	1825	0.085	2.978	31	1825	0.437	15.327	31	1825	0.522	18.305
19:00-20:00	6	2675	0.012	0.437	6	2675	0.243	8.529	6	2675	0.255	8.966
20:00-21:00	1	6623	0.045	1.590	1	6623	0.075	2.650	1	6623	0.120	4.240
21:00-22:00	1	6623	0.000	0.000	1	6623	0.211	7.420	1	6623	0.211	7.420

Table 1.0 — 3510sq metre Car Showroom

VEHICLES — Estimate TRIP rates ☑

Survey Start/End: 05:00-22:00 — Estimated TRIP rate value per 3510 SQM

Trip rate parameter range available: 634 - 31000 (units: sqm) — Estimated TRIP rates shown in shaded column (for 3510 SQM)

TRIP RATE VALUE PER 100 SQM	ARRIVALS Total Rate: 1.706 Peak: 07:00-08:00			Total 59.850	DEPARTURES Total rate: 1.709 Peak: 17:00-18:00			Total 59.935	TOTALS Total rate: 3.415 Peak: 07:00-08:00			Total 119.785
	No. Days	Ave. GFA	Trip Rate	Estimated Trip rate	No. Days	Ave. GFA	Trip Rate	Estimated Trip rate	No. Days	Ave. GFA	Trip Rate	Estimated Trip rate
00:00-01:00												
01:00-02:00												
02:00-03:00												
03:00-04:00												
04:00-05:00												
05:00-06:00	2	12610	0.028	0.974	2	12610	0.036	1.253	2	12610	0.064	2.227
06:00-07:00	2	12610	0.067	2.366	2	12610	0.059	2.088	2	12610	0.126	4.454
07:00-08:00	21	8455	0.219	7.690	21	8455	0.080	2.807	21	8455	0.299	10.497
08:00-09:00	21	8455	0.217	7.611	21	8455	0.081	2.827	21	8455	0.298	10.438
09:00-10:00	21	8455	0.152	5.338	21	8455	0.093	3.262	21	8455	0.245	8.600
10:00-11:00	21	8455	0.109	3.815	21	8455	0.110	3.855	21	8455	0.219	7.670
11:00-12:00	21	8455	0.111	3.894	21	8455	0.115	4.033	21	8455	0.226	7.927
12:00-13:00	21	8455	0.113	3.974	21	8455	0.127	4.468	21	8455	0.240	8.442
13:00-14:00	21	8455	0.151	5.298	21	8455	0.131	4.586	21	8455	0.282	9.884
14:00-15:00	21	8455	0.114	3.993	21	8455	0.127	4.468	21	8455	0.241	8.461
15:00-16:00	21	8455	0.097	3.400	21	8455	0.129	4.527	21	8455	0.226	7.927
16:00-17:00	21	8455	0.088	3.104	21	8455	0.184	6.464	21	8455	0.272	9.568
17:00-18:00	21	8455	0.063	2.194	21	8455	0.192	6.741	21	8455	0.255	8.935
18:00-19:00	20	8802	0.066	2.313	20	8802	0.131	4.586	20	8802	0.197	6.899
19:00-20:00	2	12610	0.056	1.948	2	12610	0.052	1.809	2	12610	0.108	3.757
20:00-21:00	2	12610	0.024	0.835	2	12610	0.044	1.531	2	12610	0.068	2.366
21:00-22:00	1	22270	0.031	1.103	1	22270	0.018	0.630	1	22270	0.049	1.733

Table 2.0 — 3510sq metre Furniture Outlet.

The AM peak hour and PM peak hour trip generation associated with both these land uses is further summarised and shown within Table 3.0 below:

Land Use	AM Inbound	AM Outbound	PM Inbound	PM Outbound
Car Showroom	33	12	12	26
Furniture Outlet	6	4	4	7

Table 3.0 — AM and PM Trip Generation.

From all the above Tables it can been seen that the car sales and car showroom generates significantly more daily and peak hour trips to that of the proposed furniture outlet.

Therefore, we consider that the proposed change of use to a furniture outlet is unlikely to have any material traffic impact on the operation of the adjacent road links or junctions.

Car Parking Provision.

As previously discussed 38 car parking spaces are provided around the perimeter of the building. If this building footprint is reviewed within the context of the Fingal County Development Plan 2017 to 2023 some 99 car parking spaces would be required.

This extent of parking provision is based on 1 space per 30sq metres for a retail land use as set out within Table 12.8 of the Development Plan.

We consider this extent of car parking provision to be excessive when the likely extent of daily and peak trips is reviewed within Table 2.0 above, where less than 10 trips are projected during a typical trading hour and less than 60 trips over a typical trading day.

As such we consider that 38 parking spaces more than sufficient to serve this change of use planning application.

If you require clarification on any aspect of the above please do not hesitate to contact us.

Yours sincerely,

M J Moran
for TPS

Appendix B

Existing site layout plan submitted under Reg. Ref. FW18A/0015 indicating the existing 38 no. car parking spaces included within the application site boundary.

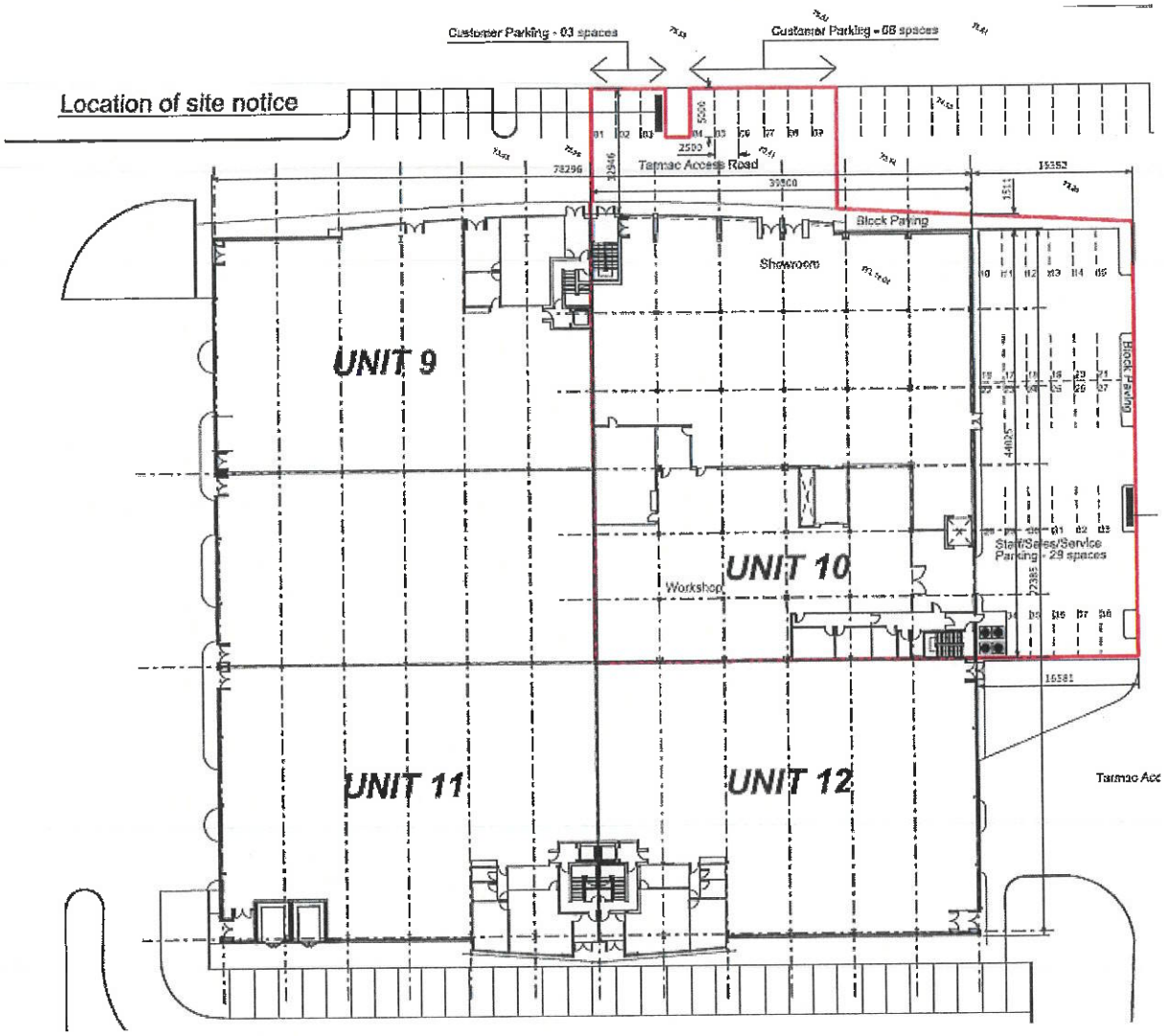

Figure 4.0 Existing site layout plan submitted under Reg. Ref. FW18A/0015

Appendix C

Proposed site layout plan submitted under Reg. Ref. FW18A/0015 indicating the swept path for truck delivery access to the existing unit.

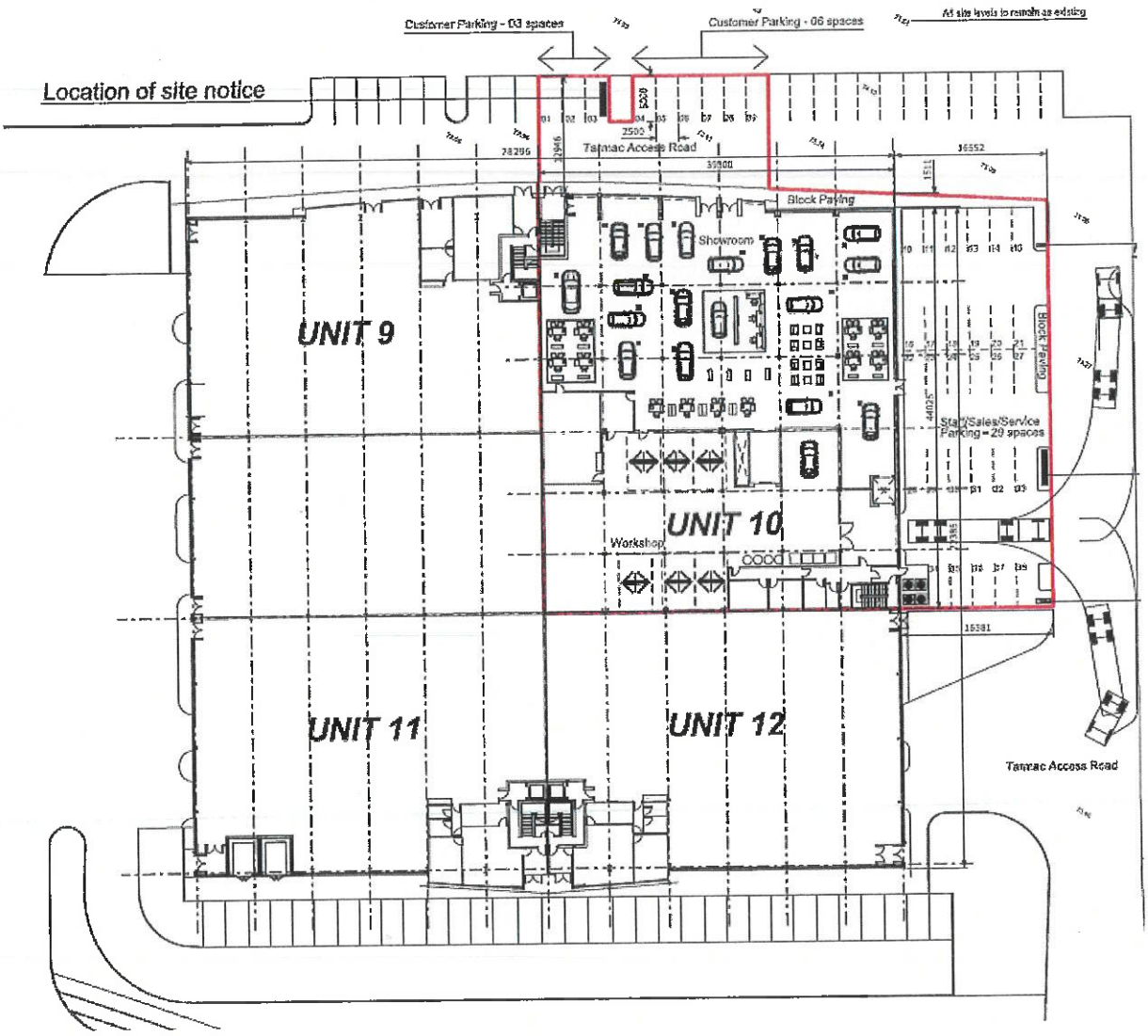

Figure 5.0 Proposed site layout plan submitted under Reg. Ref. FW18A/0015