

Referral of Section 5 Declaration

Change of Use

Unit 10 North Park, North Road, J5 M50, Finglas, Dublin 11 (D11 R761)

Fingal County Council Reg. Ref. FS5W/13/19

22nd August 2019



Submitted on behalf of:

Kilian Coyle and Bronwen Coyle
Unit 10 North Park, North Road,
J5 M50 Finglas,
Dublin 11, D11 R761

AN BORD PLEANALA	
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1.0 Introduction

This Referral to An Bord Pleanála, pursuant to Section 5(3)(a) of the Planning and Development Act 2000 (as amended), has been prepared by Hughes Planning and Development Consultants, 70 Pearse Street, Dublin 2, on behalf of our clients Kilian Coyle and Bronwen Coyle and relates to a Section 5 declaration made by Fingal County Council on 26th July 2019 under Reg. Ref. FS5W/13/19, regarding a change of use from a car sales premises to use as a furniture shop at Unit 10 North Park, North Road, J5 M50, Finglas, Dublin 11 (D11 R761).

We request that An Bord Pleanála review the Section 5 declaration issued by Fingal County Council and make a determination that the change of use of Unit 10, North Park, North Road, J5 M50, Finglas Dublin 11 (D11 R761), from use as a car sales premises to use for the sale of furniture, constitutes exempted development. In the interests of clarity, we would ask the following question to An Bord Pleanála:

"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?"

The prescribed fee of €220.00 is enclosed, along with a copy of the declaration issued by Fingal County Council. This report sets out the rationale for the furniture sale use to be deemed exempted development. We request that An Bord Pleanála set aside the decision of Fingal County Council and issue a declaration stating that the proposed use of the subject unit constitutes **exempted development**.

We would submit, from the outset, that the proposed change of use at Unit 10, North Park, J5, Finglas, Dublin 11, constitutes 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).

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 the proposed change of use to be deemed exempted development. An operational statement has also been prepared by Kilian Coyle, as the owner of the subject unit to support the proposal.

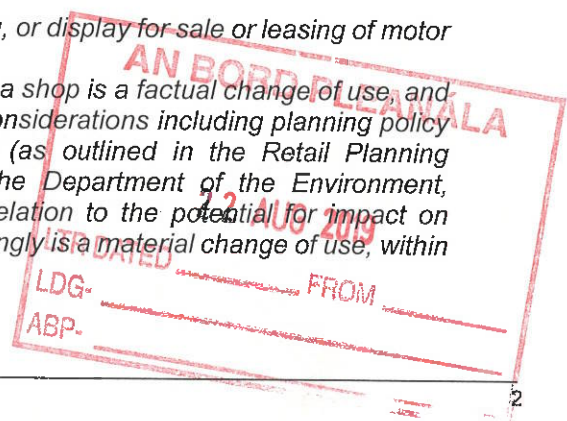
1.1 Section 5 Declaration issued by Fingal County Council

On 26th July 2019, Fingal County Council issued the following notice with regards to the Section 5 declaration sought for the change of use of Unit 10 North Park, North Road, J5 M50, Finglas Dublin 11 (D11 R761).

- 'Having regard particularly to –*
- (a) Sections 2,3 and 4 of the Planning and Development Act 2000, as amended, including the provisions of Section 4(4), as amended, in respect of environmental impact assessment and appropriate assessment,*
 - (b) Articles 5,6,9 and 10 of the Planning and Development Regulations 2001-2018,*
 - (c) Class 14(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001-2018,*
 - (d) The planning history and permitted uses on the site.*

AND WHEREAS:

- (a) the permitted use of the site is for the sale or leasing, or display for sale or leasing of motor vehicles;*
- (b) the change of use from the permitted use to use as a shop 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 outlined in the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in 2010), in relation to the potential for impact on neighbouring property and traffic safety and accordingly is a material change of use, within*



the meaning of Section 3(1) of the Planning and Development Act 2000, as amended, and is therefore development.

- (c) *The proposed change of use to a shop comes within the scope of the exemption provided in Class 14(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001-2029, but in this instance, it is considered that this exemption is restricted by the provisions of Article 9(1)(a)(iii) as, having regard to the inadequacy of car parking within the control of the applicant, the development would endanger public safety by reason of traffic hazard or obstruction of road, and the development would therefore not be exempted development.*

In light of this decision, we strongly consider that the Planning Authority's assessment has not duly considered a number of key items. These items are presented below:

1.2 Summary of Referral

The applicant's grounds of referral can be summarised by the following points:

- The proposed change of use is considered to 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 change of use does not materially contravene conditions attached to previous planning permissions.
- The location of Unit 10, North Park is considered ideal to accommodate a significantly sized furniture retail unit and has the benefit of easy access to the M50.
- It is considered that the proposal will not endanger public safety by reason of traffic hazard or obstruction of road users as a result of the proposed use of the premises.
- It is contended that the proposal provides for an adequate level of car-parking to serve the proposed furniture retail unit. This has been further supported by a transport report prepared by TPS M Moran & Associates which indicates that the car sales and showroom use generates significantly more daily and peak hour trips to the of the proposed furniture retail unit.

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.



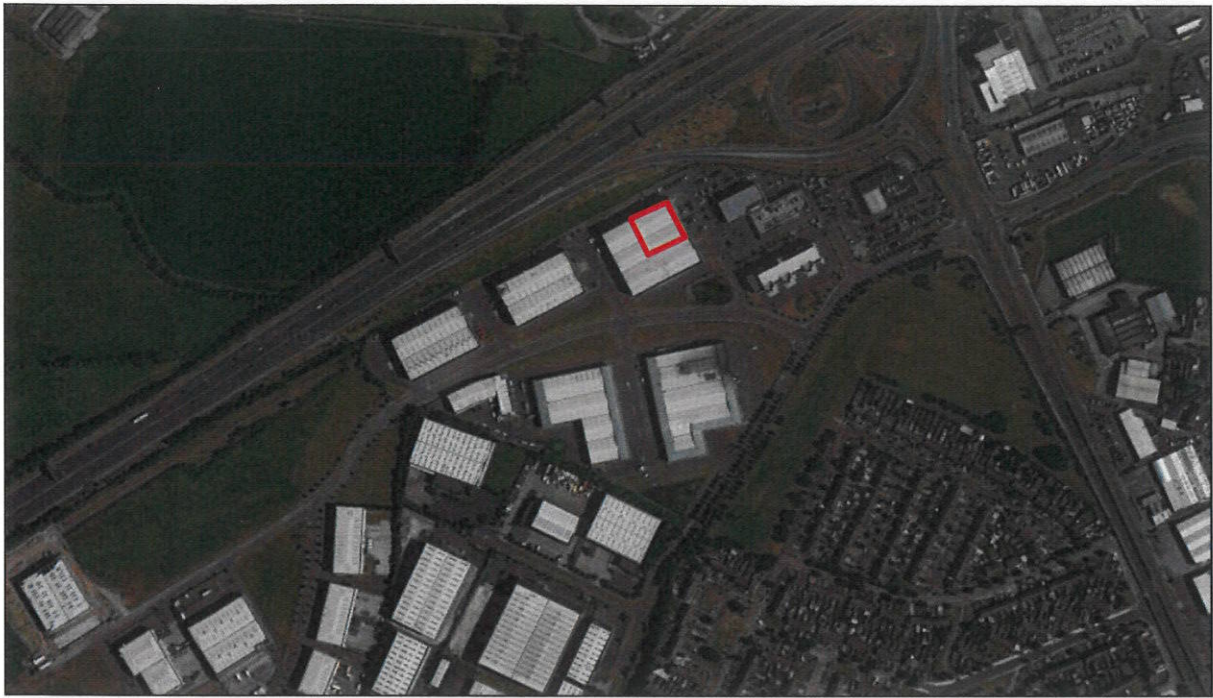


Figure 1.0 Aerial view, showing the locational context of the subject site, outlined in red



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 (size 27.8m x 6.9m) and east elevation (size 11.1m x 6.9m)

Reg. Ref. FW10A/0202

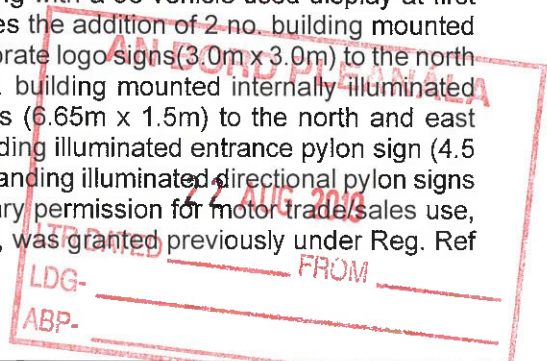
Planning permission granted by Fingal County Council on 4th July 2011 for development at the vacant site adjacent to Unit 10, North Park. The development is for the construction of a new 2,638 sqm Audi motor trade facility. Comprising of a 15 no. vehicle Audi showroom at ground floor and 3 no. vehicle 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 in writing with the Planning Authority. The rate of contribution payable shall be that pertaining to the particular year in which implementation of 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

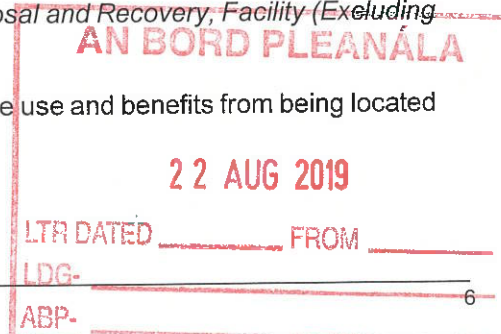
The subject site is zoned Objective 'GE' – General Employment in the Fingal Development Plan 2017-2023. The objective of the 'GE' zoning is to 'provide opportunities for general enterprise and employment'. The vision for lands subject to the 'GE' zoning objective is as follows:

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.



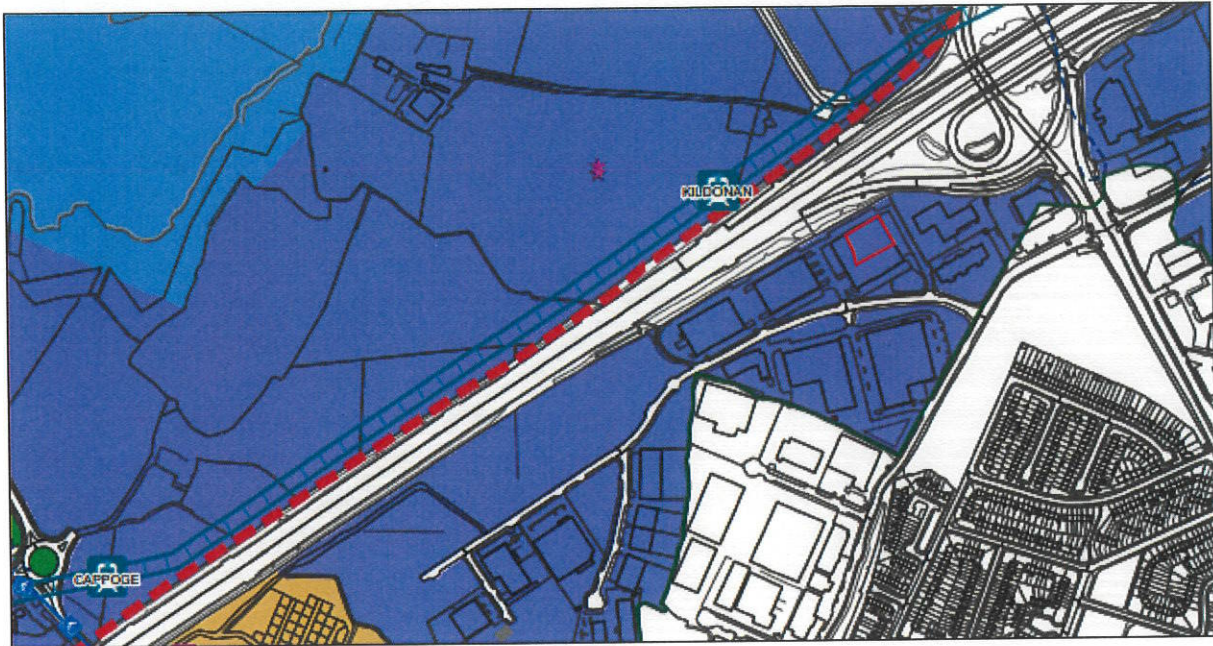


Figure 3.0 Extract from Sheet 12 of the Fingal County Development Plan 2017-2023 with the subject site outlined in red. The subject unit is zoned Objective 'GE' – General Employment.

5.0 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 for the sale of furniture. We note that 15% of the unit will be allocated for ancillary office facilities and storage.

6.0 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:

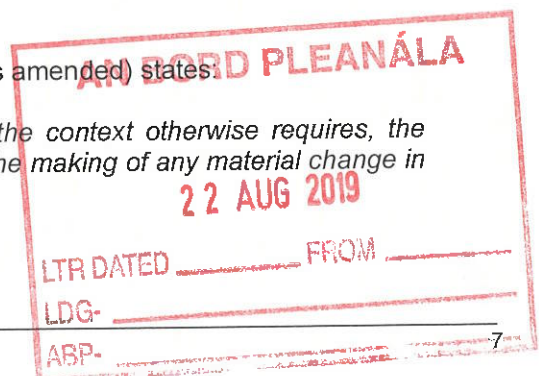
'In this Act, except where the context otherwise requires'–

'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 specified 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 specified 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.

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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,*

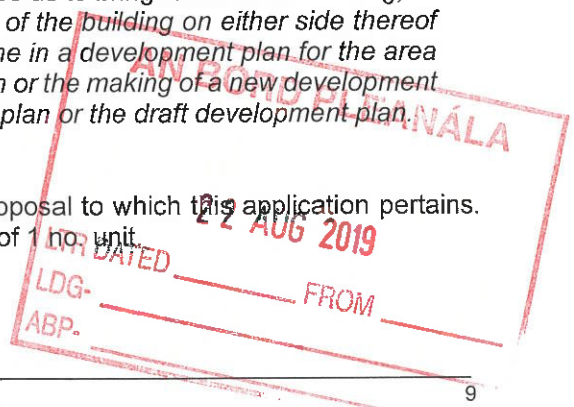
No amendments are proposed to the existing access.

- (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 B of this report.

- (iv) 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.



- (v) *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.

- (vi) *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.

- (vii) *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.

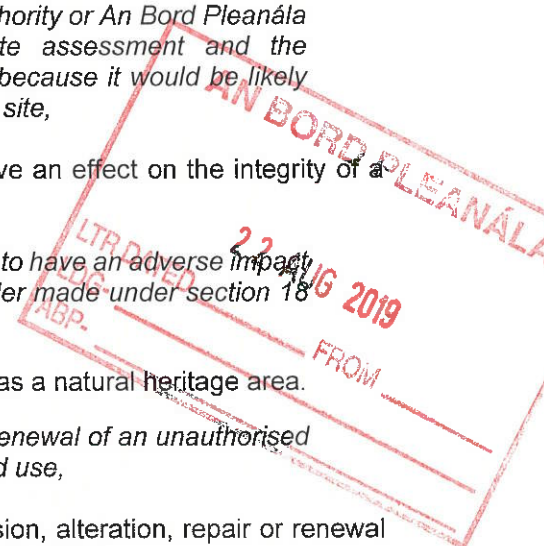
- (viiC) *consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.*

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

- (viii) *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.

- (ix) *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.

- (x) *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.

- (xi) *obstruct any public right of way,*

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

- (xii) *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 specified 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.

7.0 Grounds for Referral

This section of the report will seek to expand further on the grounds of referral to An Bord Pleanála. The question before the Board relates to the change of use of Unit 10, North Park, North Road, J5 M50, Finglas Dublin 11 (D11 R761), from use as a car sales premises to use for the sale of furniture, constitutes exempted development. With this in mind we have regard 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:

- (b) *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 their assessment of the application, Fingal County Council considered that the proposal constitutes 'development' within the meaning of Section 3(1) of the Act and does not constitute exempted development. We refer to the following commentary contained within the Case Officer's Report:

'the proposed change of use to use as a shop comes within the scope of the exemption provided in Class 14(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001-2018, but in this instance, it is considered that this exemption is restricted by the provisions of Article 9(1)(a)(ii) as, having regard to the inadequacy of car parking within the control of the applicant, the development would endanger public safety by reason of traffic hazard or obstruction of road, and the development would therefore not be exempted development'

Traffic Hazard and Car Parking

The proposed change of use is considered to be exempt pursuant to Class 14(a) of Part 1 Schedule 2 of the Planning and Development Regulations and will not endanger public safety by reason of traffic hazard or obstruction of road users. We strongly consider that the Planning Authority has not duly assessed the proposal having consideration for the existing level of car-parking available and the proposed volume of traffic generated as a result of the proposed change of use. In their assessment of the section 5 application submitted under Reg. Ref. FS5W/13/19, the Case Officer notes the following:

Table 12.8 of the Fingal Development Plan 2017-2023 set out car parking standards and specifies a maximum rate of a space per 30sq.m of gross floor space which equates to 117 spaces for the proposed furniture retailing proposed.

We refute the above point and note that whilst that the total gross floor area of the subject unit is 3,510sq.m, it is proposed that approximately 15% (563.5sq.m) of the unit will be allocated to office and storage facilities, resulting in an overall retail floor space of 2983.5sq.m. Furthermore, we note that approximately 10% of the proposed retail floorspace (298.4sq.m) would be allocated to circulation space for prospective customers to browse through resulting in a total retail footprint of 2,685sq.m

Referring to Table 12.8, Chapter 12 of the Fingal County Development Plan 2017-2023, we note that a maximum of 1 no. car-parking space is required per 30sq.m (Gross Floor Area) of retail floor space., meaning that a **maximum** of 89.5 no. car-parking spaces to serve the proposed retail unit are required. We further highlight that these are maximum and not minimum requirements. The proposed development will provide for a total of 38no. 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 the perceived traffic volumes can be accommodated. Page 3 of the Planning Authorities, Case Officer's report however includes the following commentary in relation to the number of car-parking spaces included within the boundary of the subject site:

'It appears that the change of use proposed is inclusive of the 38 car parking spaces and that Unit 10 inclusive of the car parking presented as a single planning unit. The ownership of the 38 car parking spaces is not supported by the ownership boundary declared in FW18A/0015.'

The above statement is inaccurate and misleading. The 38-no. car-parking spaces referred to above which serve the subject unit, Unit 10, North Park, North Road, J5 M50, Finglas. Referring to a letter prepared by Brian Berrills & Company Solicitors, which is contained within appendix D of this report, it is confirmed that the applicants, Kilian Coyle and Bronwen Coyle, hold Unit 10 North Park Retail Park, County Dublin, by way of a 10,000 year lease from Marshalsea Property Company Limited and appurtenant to the lease are 9 no. car parking spaces to the front of the property and an area to the eastern side of the building which contains an additional 29 no. car parking spaces.

We also note the following commentary from the concluding section of the Case Officer's report in relation to the proposed change of use:

- *'Specific provision of Article 9 of the planning and development regulations 2001 as amended to limit exemptions where they could lead to the creation of a traffic hazard or lead to the obstruction of road users.*
- *The report reported reliance of the proposed development on car parking outside of the control of the applicant to ensure that a traffic hazard/obstruction to road users does not arise.'*

In response to the above points, we refer to Appendix B of this referral, which contains a transport report prepared by TPS M Moran & Associates, which demonstrates that the car sales and car showroom use generates significantly more daily and peak hour trips to that of the proposed furniture retail unit. We also highlight that the previous use of the subject unit as a popular and busy car showroom/motor facility generated significant volumes of pedestrian and vehicular traffic in and out of this location, however no recorded incidents occurred during this time with respect to vehicle or pedestrian movements.

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. Given the bulky nature of the products on display, it is expected that more than 90% of customer orders will be delivered directly to the customer's home from a central warehouse facility located in Monaghan. 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 furniture retail/shop use.

In addition to this, we note that the subject unit, Unit 10, North Park, North Road, J5 M50, Finglas, Dublin 11, can be reached by a number of high-quality and frequent public transport services which serve both North Road and the Charlestown Shopping Centre which is within walking distance of the North Park Business Park. These include Dublin Bus stops which are served by route Nos. 9, 40a, 83 and 140. It is therefore considered that the availability of public transport in close proximity to the subject unit would serve to balance the demand of car parking spaces required.

We would argue that the proposed use of the subject unit as a furniture retail unit is intensive in footprint usage but not in traffic generation. Referring to the technical and professional transport report and letter which accompany this referral, it is evident that the proposed use of the unit as a furniture retail unit/shop is likely to result in the creation of significantly less traffic than was generated by the car sales/motor showroom use, which provided for customer test drives, frequent car service drop offs and collections and daily deliveries. It is also important to note that the previous use of the unit required approximately 30 no. staff members daily, the proposed use of the unit for the sale of furniture will only require 8-10 staff members on site at any given time, representing a substantial decrease. In light of the above-mentioned, we consider that the proposed change of use will not endanger public safety by reason of traffic hazard or obstruction of road users.

8.0 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.

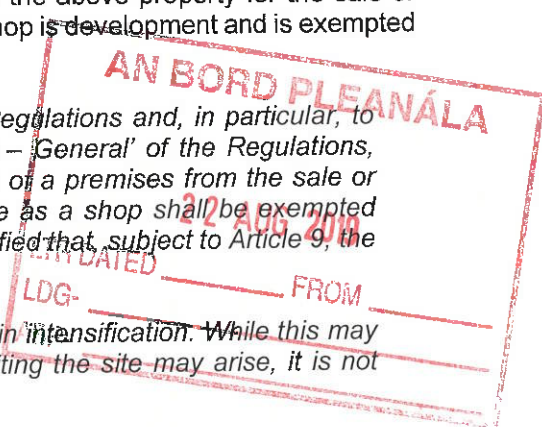
An order on the above question was delivered on 28th August 2018 by An Bord Pleanála which states that:

'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.

9.0 Conclusion

The question before An Bord Pleanála 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?"

It is our opinion 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 An Bord Pleanála under Section 5 of the *Planning and Development Act 2000 (as amended)*.

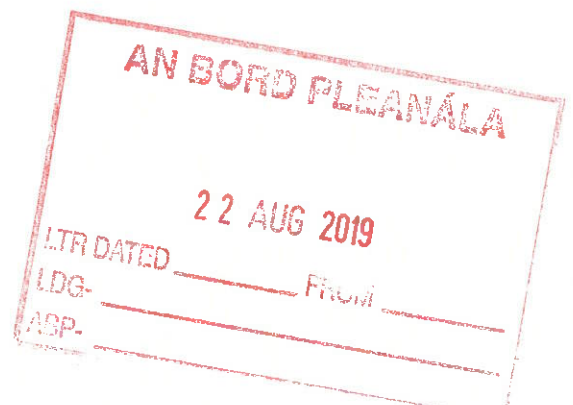
We trust that the Board will have regard to this submission, and look forward to a decision in due course.

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

Declaration issued by Fingal County Council on 26th July 2019.





Kevin Hughes MIPI, MRTIPI,
Hughes Planning and Development Consultants
70 Pearse Street
Dublin 2

NOTIFICATION OF DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACTS 2000, AS AMENDED

Decision Order No. PB/0375/19	Decision Date: 26-Jul-2019
Ref: F55W/13/19	Registered: 02-Jul-2019

Area: Blanchardstown Mulhuddart

Applicant: Killian Coyle and Bronwen Coyle

Development: 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 of leasing or display for the sale or leasing of motor vehicles to use for the sale of furniture.

Location: Unit 10 North Park, North Road, J5 M50, Finglas, Dublin 11,, D11 R761

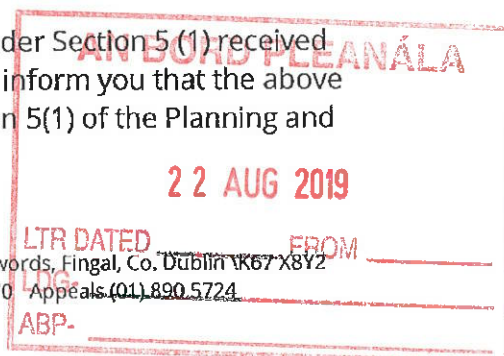
Application Type: Request for Declaration Under Section 5

Dear Sir/ Madam

With reference to your request for a DECLARATION under Section 5 (1) received on 02-Jul-2019 in connection with the above, I wish to inform you that the above proposal IS NOT Exempted Development under Section 5(1) of the Planning and Development Act 2000 for the following reason(s):

Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath / County Hall, Swords, Fingal, Co. Dublin K67 X8Y2
Swords Office t: Registry (01) 890 5541 Decisions (01) 890 5670 Appeals (01) 890 5724
e: planning@fingal.ie www.fingal.ie

Bóthar an Gharráin, Baile Bhlainséir, Átha Cliath 15 / Grove Road, Blanchardstown, Dublin 15 D15 W638
Blanchardstown Office t: (01) 870 8434 e: blanch.planning@fingal.ie

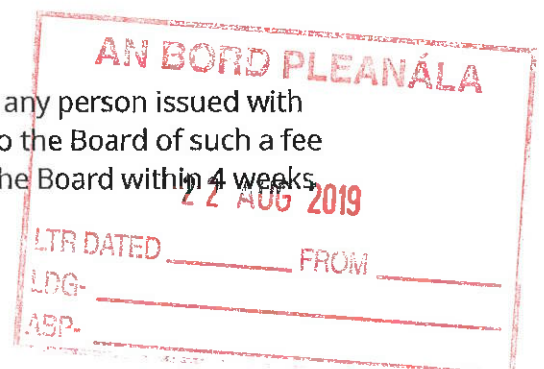


1. Having regard particularly to –
 - (a) Sections 2, 3 and 4 of the Planning and Development Act 2000, as amended, including the provisions of Section 4(4), as amended, in respect of environmental impact assessment and appropriate assessment,
 - (b) Articles 5, 6, 9 and 10 of the Planning and Development Regulations 2001-2018,
 - (c) Class 14(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001-2018,
 - (d) The planning history and permitted uses on the site.

AND WHEREAS:

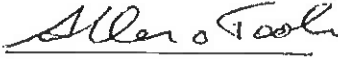
- (a) the permitted use of the site is for the sale or leasing, or display for sale or leasing of motor vehicles;
- (b) the change from the permitted use to use as a shop is a factual change of use, and this change of use would raise material planning considerations including planning policy, in relation to the location of retail development (as outlined in the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in 2012), in relation the potential for impact on neighbouring property and traffic safety and accordingly is a material change of use, within the meaning of Section 3(1) of the Planning and Development Act 2000, as amended, and is therefore development.
- (c) The proposed change of use to use as a shop comes within the scope of the exemption provided in Class 14 (a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001- 2018, but, in this instance, it is considered that this exemption is restricted by the provisions of Article 9(1)(a)(iii) as, having regard to the inadequacy of car parking within the control of the applicant, the development would endanger public safety by reason of traffic hazard or obstruction of road, and the development would therefore not be exempted development.

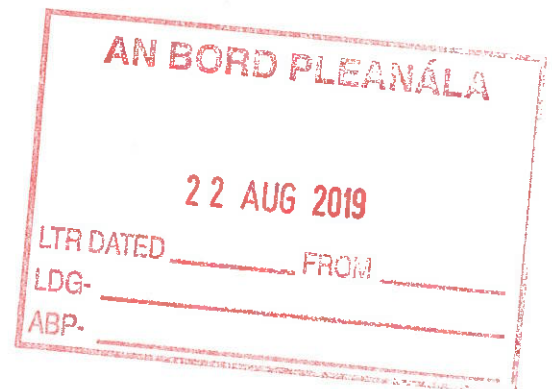
NOTE: Where a declaration is issued under section 5 (1) any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such a fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.



Ref No: FS5W/13/19

Signed on behalf of Fingal County Council.

 30-Jul-2019
for Senior Executive Officer



NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications relate to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of eight weeks beginning on the date of Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála by the applicant or ANY OTHER PERSON who made submissions or observations in writing to the Planning Authority in relation to this planning application within four weeks beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received). A person who has an interest in land adjoining land in respect of which permission has been granted may within the appropriate period and on payment of the appropriate fee apply to the Board for Leave to Appeal against that decision.
1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1.
2. An appeal lodged by an applicant or his agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below. In the case of third party appeals, a copy of the acknowledgement of valid submission issued by F.C.C. must be enclosed with the appeal.
3. A party to an appeal making a request to An Bord Pleanála for an oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (f) below).
4. Where an appeal has already been made, another person can become an "observer" and make submissions or observations on the appeal. A copy of the appeal can be seen at the Planning Authority's office.
5. If the Council makes a decision to grant permission/ retention/ outline/ permission consequent on the grant of outline and there is no appeal to An Bord Pleanála against this decision, a final grant will be made by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If every appeal made in accordance with the Acts has been withdrawn, the Council will issue the final grant as soon as may be after the withdrawal.
6. Fees payable to An Bord Pleanála from 5th September 2011 are as follows:

Case Type

Planning Acts

(a) Appeals against decisions of Planning Authorities

Appeal

(i) 1 st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if an EIS or NIS involved
(ii) 1 st party appeal relating to commercial development (no retention element in application)	€1,500 or €3,000 in EIS or NIS involved
(iii) 1 st party appeal non-commercial development where the application included the retention of development.	€660
(iv) 1 st party appeal solely against contribution condition(s) – 2000 Act Section 48 or 49	€220
(v) Appeal following grant of leave to appeal (An application for leave to appeal is also €110)	€110
(vi) An appeal other than referred to in (i) to (v) above.	€220
(b) Referral	€220
(c) Reduced fee for appeal or referral (applies to certain specified bodies)	€110
(d) Application for leave to appeal (section 37(6)(a) of 2000 Act	€110
(e) Making submission or observation (specified bodies exempt).	€50
(f) Request for oral hearing under Section 134 of 2000 Act	€50

NOTE: the above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above).

Fees apply to: All third party appeals at 7(a)(iv) above except where the appeal follows a grant of leave to appeal; First party (section 37 appeals) planning appeals not involving commercial or retention development, an EIS or NIS. All other (non section 37) first party appeals.

These bodies at 7(c) above are specified in the Board's order which determined fees. They include planning authorities and certain other public bodies e.g. National Roads Authority, Irish Aviation Authority.

NB. This guide does not purport to be a legal interpretation of the fees payable to the Board. A copy of the Board's order determining fee under the Planning Act is obtainable from the Board. Further information about fees under other legislation may be found in the appropriate legislation and is also available from the Board.

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at (01) 8588 100.

AN BORD PLEANÁLA

22 AUG 2019

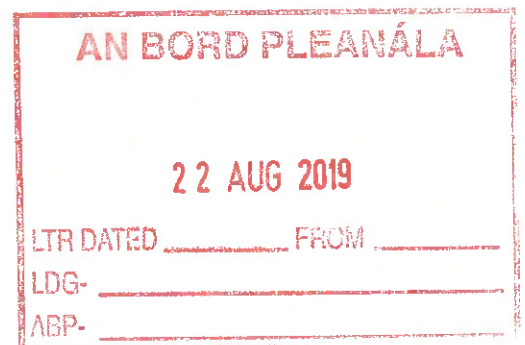
LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Appendix B

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 be 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.

AN BORD PLEANÁLA	
22 AUG 2019	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

VEHICLES		Estimate TRIP rates <input checked="" type="checkbox"/>											
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	DEPARTURES			Total	TOTALS			Total	
	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	
	Total Rate: 6.561			230.291	Total rate: 6.916			242.763	Total rate: 13.477			473.054	
	Peak: 08:00-09:00				Peak: 16:00-17:00				Peak: 16:00-17:00				
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	26.804	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 <input checked="" type="checkbox"/>											
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	DEPARTURES			Total	TOTALS			Total	
	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	
	Total Rate: 1.706			59.850	Total rate: 1.709			59.935	Total rate: 3.415			119.785	
	Peak: 07:00-08:00				Peak: 17:00-18:00				Peak: 07:00-08:00				
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	9.804	
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:

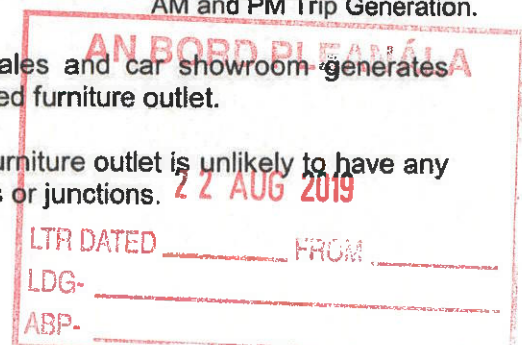
Land Use	AM Inbound	AM Outbound	PM Inbound	PM Outbound
Car Showroom	33	12	12	26
Furniture Outlet	6	4	4	7

Table 3.0

AM and PM Trip Generation.

From all the above Tables it can be 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.

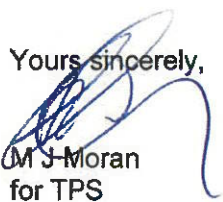
This extent of parking provision is based on 1 space per 30sq metres for a retail land use as set out within Table 12.8 of the Development Plan.

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

AN BORD PLEANÁLA

22 AUG 2019

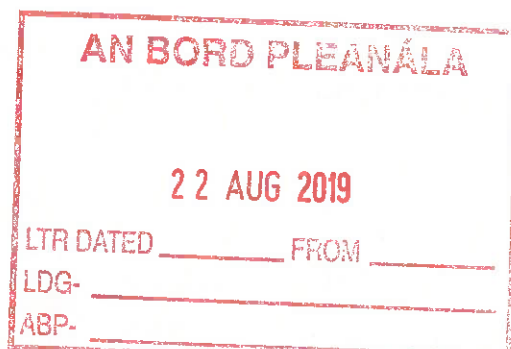
LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Appendix C

Operational Statement prepared by Kilian Coyle, applicant and owner of the subject unit at Unit 10, North Park, North Road, J5 M0, Finglas, Dublin 11, D11 R761



Appendix D

Legal Letter prepared by Brian Berrills & Company Solicitors





BRIAN BERRILLS & COMPANY
Solicitors

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Dundalk
County Louth
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Brian Berrills BCL LLB
Stephen Reel BCL LLM
Caroline Berrills BA TEP
Michael Bishop LLB
Louise Reilly M.I.L.L.Ex.

VIA email & Post

Kilian Coyle
Daintree
Plantation
Monaghan
County Monaghan

21st August 2019

Re: Unit 10 North Park JDM Motors
Our Ref: SR/LR/COY003-001

Dear Kilian,

Further to your recent enquiry I confirm that yourself and your sister, Bronwyn, hold Unit 10 North Park Retail Park, County Dublin, by way of a 10,000 year lease from Marshalsea Property Company Limited dated 1st August 2006. Appurtenant to the lease are 9 car parking spaces to the front of the property and an area to the side of the building which you have laid out in 29 car parking spaces. I attach hereto a colour map showing the parking area to the side coloured green/blue together with an additional black and white map detailing the lined spaces in the front.

Should you require any further information, please do not hesitate to contact me.

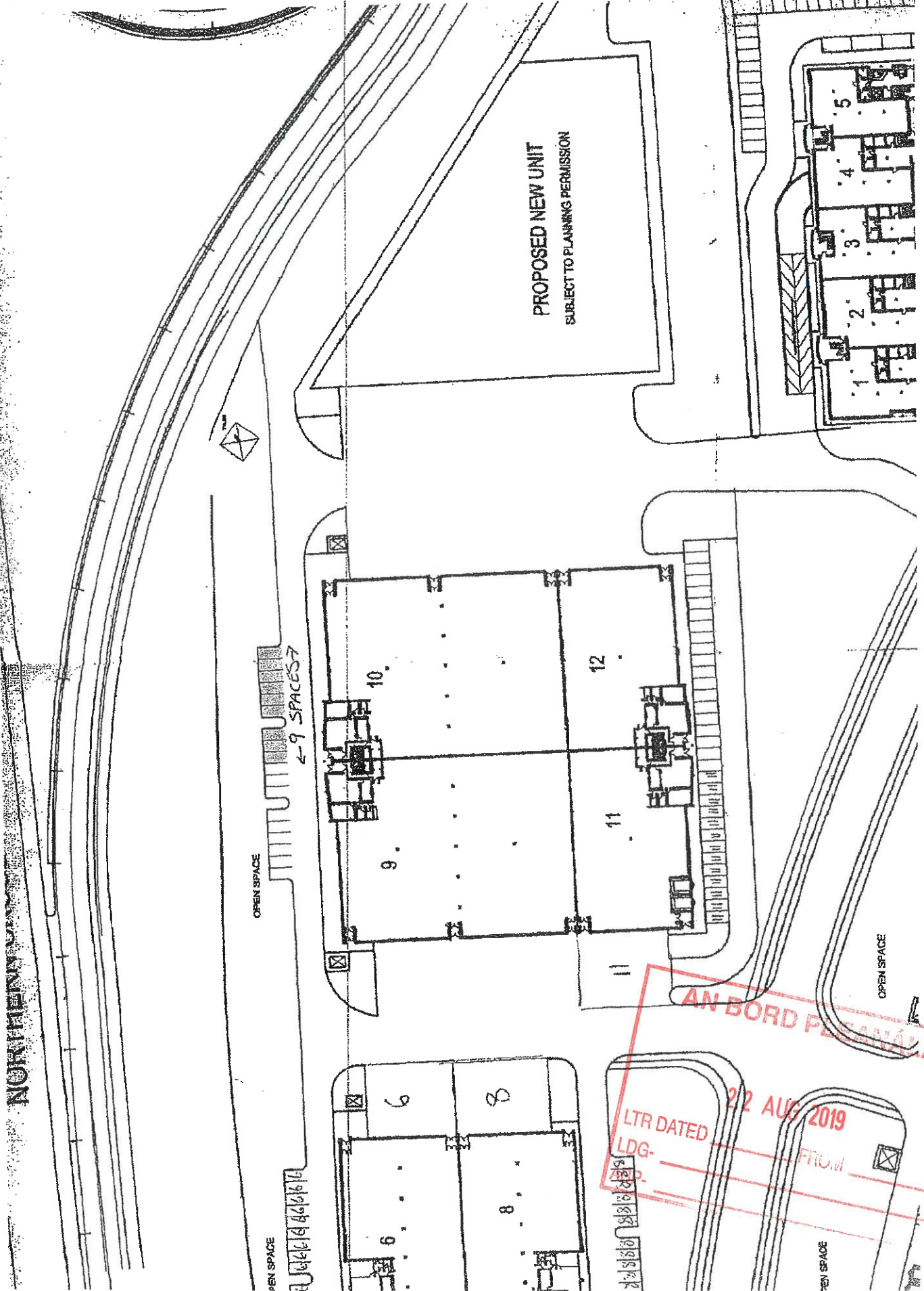
Yours sincerely,

Stephen Reel
BRIAN BERRILLS & COMPANY

stephenreel@brianberrills.ie

encs





NORTHENNA

OPEN SPACE

4-9 SPACES

OPEN SPACE

OPEN SPACE

OPEN SPACE

AN BORD PLEABÁLA

LTR DATED 22 AUG 2019

LDG- FROM

Appendix E

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

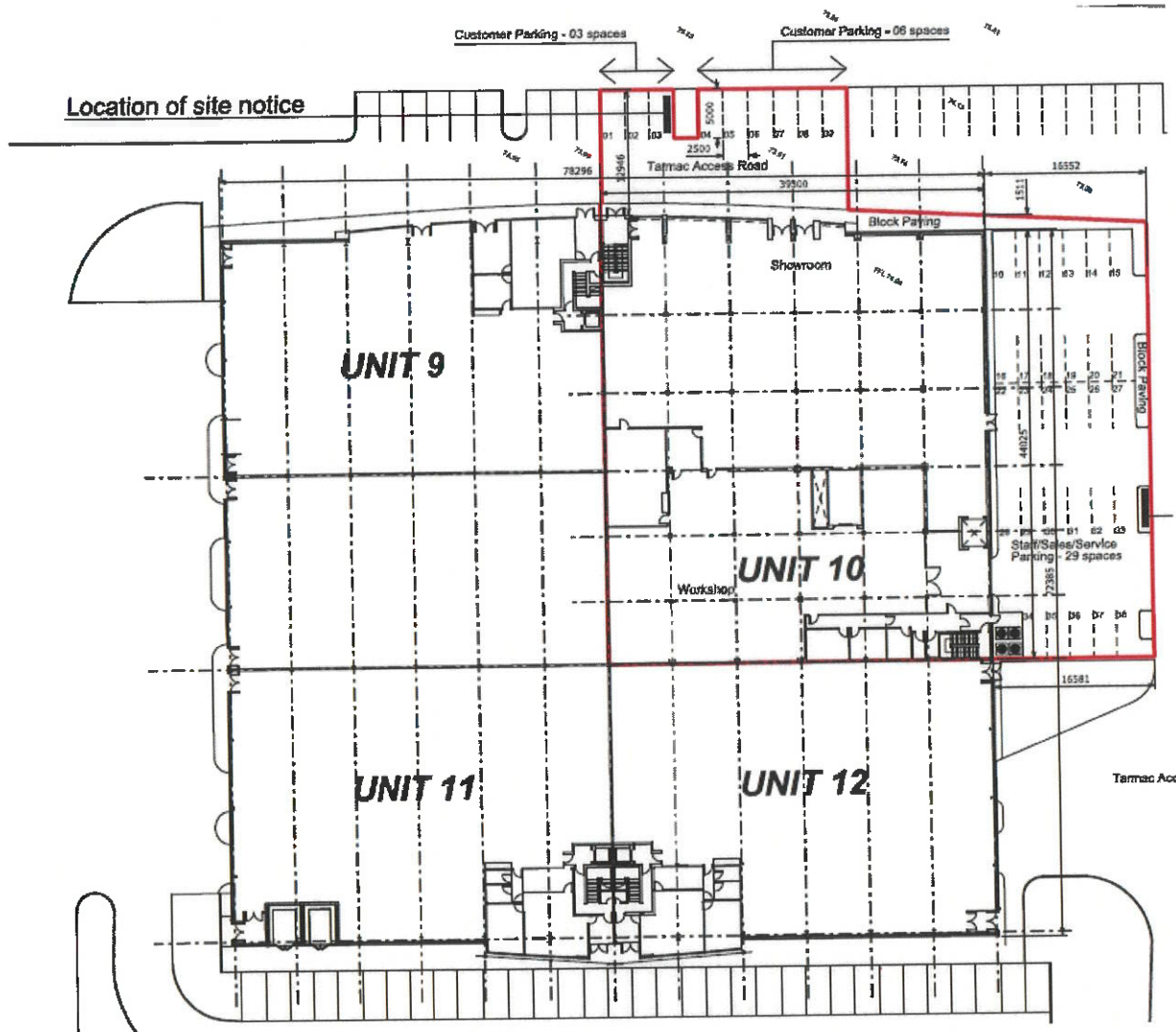


Figure 4.0 Existing site layout plan submitted under Reg. Ref. FW18A/0015



Appendix F

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

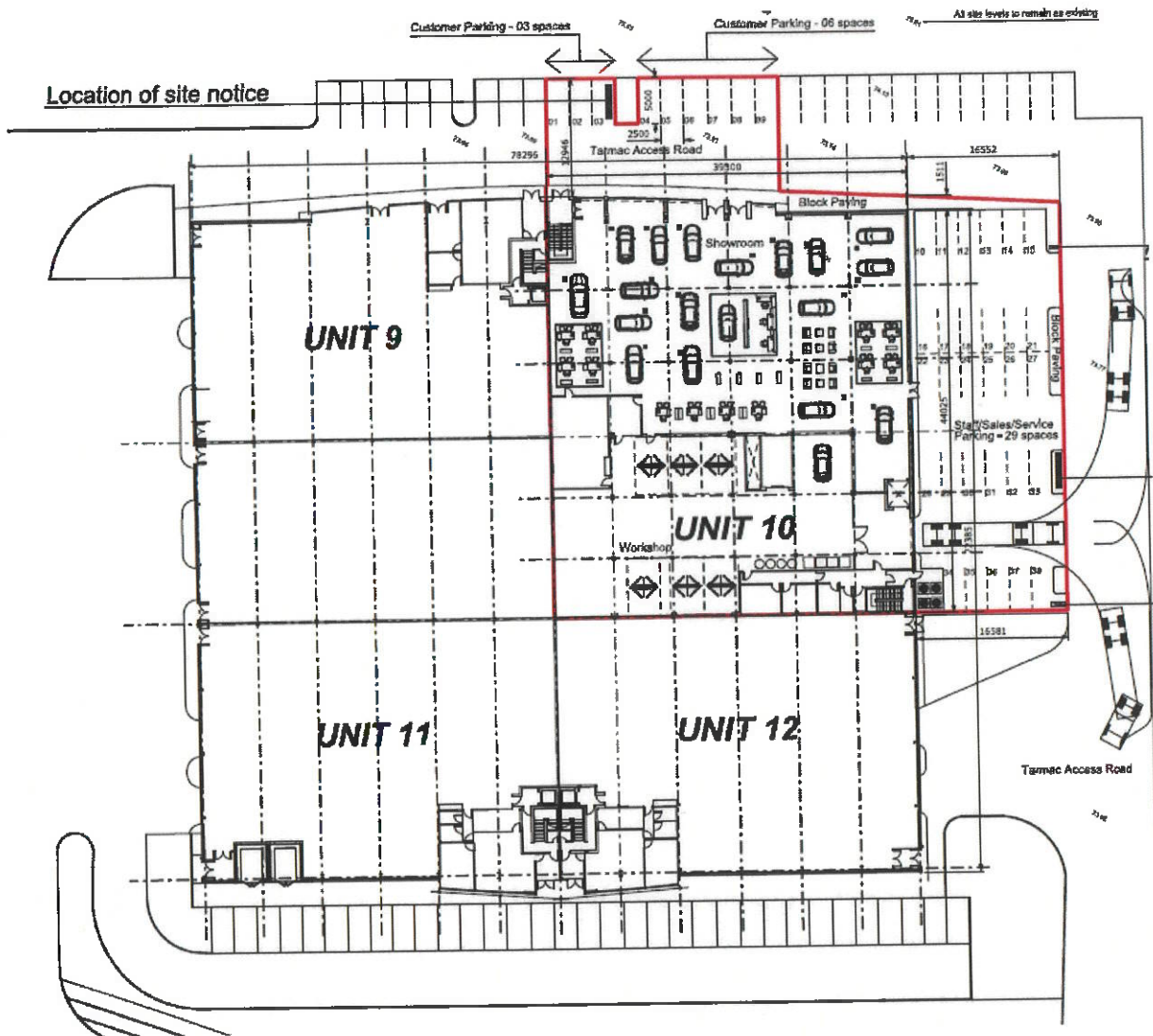


Figure 5.0 Proposed site layout plan submitted under Reg. Ref. FW18A/0015

AN BORD PLEANÁLA
22 AUG 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

FURNITURE CONNEXIONS

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

19th August 2019

Re: Fingal County Council Planning Ref. FS5W/13/19

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 of leasing or display for the sale or leasing of motor vehicles to use for the sale of furniture.

Dear Sir/Madam,

I write to you as owner and planning applicant for change of use to furniture sales use for Unit 10, North Park, North Road, Finglas, Dublin 11.

In our enclosed submission by Hughes Planning & Development Consultants, you will find the reasoning and background justifying our application for change of use of the subject premises to furniture sales facility.

Background:

When it was built new in 2006, Unit 10, North Park operated as a furniture showroom for a period of 2.5 years under the name of our own brand Furniture Connexions. Given our group experience in the furniture trade since 1936, our objective was to establish a high-quality furniture store with designs not available in the Irish market and also with particular focus on a spacious store layout for the final consumer to browse and high standards of product placement with presentation.

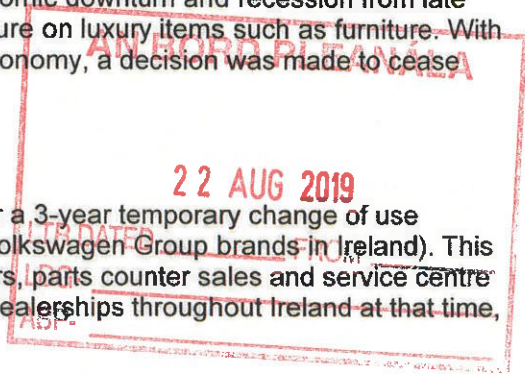
The location of Unit 10 was considered ideal for such a significant sized operation of 3,510 Sq M. over two floors given the high-profile building and easy access onto the M50 at Junction 5 Finglas exit. Car parking provision at 38 quantity directly under the ownership of the building was more than adequate to meet the demand for staff and customers alike for the seven days per week furniture showroom operation. The main furniture product lines on display at the time included the following: Living/Dining, Bedroom, Occasional, Beds & Sofas along with some accessories. During the period of operation there were never any issues with parking, traffic or pedestrian hazards.

The building was essentially a large furniture showroom where consumers could easily browse and purchase in comfort, the furniture on display in the many room sets with each reflecting a real life image of dining, sitting and bed rooms of a typical purchasers home. Product storage on-site was very minimal as the vast majority of customer orders were fulfilled from our central warehouse in Monaghan and delivered directly to the customer's home using our fleet of two-man delivery vehicles.

The building traded successfully from the outset, however the economic downturn and recession from late 2008 onwards resulted in a severe reduction in consumer expenditure on luxury items such as furniture. With declining sales and weak economic outlook forecast for the Irish economy, a decision was made to cease operations at this location in early 2009.

Car Showrooms & Motor Trade Facility:

From late 2009 until 2012, the building operated successfully under a 3-year temporary change of use planning permission as Audi North Dublin (Audi being one of five Volkswagen Group brands in Ireland). This was a motor trade facility which involved sales of new and used cars, parts counter sales and service centre with 9 service bays, wash and valet areas. With a restructuring of dealerships throughout Ireland at that time,



FURNITURE CONNEXIONS

there was only two Audi dealerships in all of Dublin and this location was the only facility in North Dublin. This will confirm that significant volumes of cars and people were moving in and out of this location along with the circa 30 staff members on-site each day. No incidents occurred during this time with respect to vehicle or pedestrian movements.

In early 2013, we applied for permanent planning permission for change of use to motor trade facility which was subsequently granted by Fingal County Council. After an appeal on competition grounds by Joe Duffy Motor Group to An Bord Pleanála which was successfully defended, the building obtained permanent change of use to motor trade facility in October 2013. Given the positive experience with Audi at this location, Volkswagen Group Ireland approved for Karmann Volkswagen to commence full operations from Unit 10 in November 2013 onwards. With Volkswagen cars being the number one volume brand in the Irish market for many years and the number of dealerships in Dublin being reduced to just four, there was very significant volumes of vehicles and pedestrians moving each day at this location for car sales and service including up to forty staff members. While the building operated very well, it was the brand's ultimate preference to build a purpose-built Volkswagen themed facility at the Junction 5 location near Charlestown, which was completed in late 2018. Opening hours for the motor trade at this location were typically from 8.00am to 6.00pm Monday to Friday for sales & service and 9.00am to 6.00pm for sales on Saturdays.

With uncertainties in government policies relating to VRT and a switch to electric vehicles slow to take volume momentum in the Irish market, the prospects for the motor trade in the short to medium term can only be described as uncertain, hence the lack of confidence from operators to expand in current climate.

The Future:

We commenced advertising the building with our nominated estate agents Savills in May 2018 with a view to securing a suitable occupier within a number of months. Since January 2019 however, the building has remained vacant. Given the current and expected continued decline in new car sales as a result of Brexit and increased imports, interest from the motor trade for such a large facility has remained weak.

Since 2009, while Furniture Connexions may have ceased operating at Unit 10, the business continues to operate at other locations. Given the uplift in housing construction in the Irish market over the last three years and non-existent construction activity prior to that since 2008, demand has increased significantly for furniture and is expected to do so well into the future to meet expected consumer demand. Over the last number of years, the M50 and M2/N2 road sections have been upgraded and become a much sought after area to do business serving the North Dublin and surrounding areas. The high profile location of Junction 5 M50 has developed as a quality destination for businesses to locate to.

Therefore, we are seeking a section 5 declaration to change the use of Unit 10 from motor trade facility to furniture showroom. The basis would be the same as our previous operation where products would be displayed in room sets throughout both floors of the building. Each room set would measure 6m x 5m = 30 sq. m.

With a building footprint of 3,510 sq. m, approximately 15% would be allocated to office and on-site storage facilities (536.5 sq. m), resulting in a retail floorspace footprint of 2983.5 sq.m. Indeed approximately 10% of the proposed retail floorspace (298.4 sq.m) would be allocated to circulation routes for consumers to browse through, resulting in an overall retail footprint of 2,685 sq. m. Applying the concept of 30m² per room set as outlined above, this would result in 90 room sets throughout the entire two floors of the building – approximately 45 per floor level.

Therefore, it is clear that the proposed use of Unit 10, North Park as a furniture showroom is intensive in footprint usage but not traffic, pedestrian or car parking spaces. In fact it is likely to be significantly less than is currently the case as a motor trade facility with customer test drives, car service drop offs & collections, staff movements and daily deliveries.

As a furniture showroom at Unit 10, it is proposed to have circa 8-10 staff on site at any given time and the operating hours would be 9.30am to 6.00pm seven days per week including Bank holidays with late opening



FURNITURE CONNEXIONS

on Thursday & Friday nights until 9.00pm. Peak footfall and sale periods would be expected to be at weekends when most other businesses in the area would be closed or operating on a reduced scale. This would provide a minimum of circa 28 car parking spaces for customer use at any given point in time, which is considered more than adequate from an operational point of view for such a furniture showroom facility.

Given the bulky nature of the products on display in the building such as sofas, tables, wardrobes, mattresses etc, it would be expected that more than 90% of customer orders would be delivered directly to the customer's home from our central warehouse facility, thereby negating the need for customer collection at the showroom location. Again, this would reduce the amount of traffic flow, pedestrian and HGV vehicle movements associated with the furniture showroom operation.

Conclusion:

Currently Unit 10, North Park is vacant and has been since early 2019, despite being advertised with estate agents since May 2018. The motor trade has declined significantly as a result of Brexit, used imports and marques consolidating operations into larger, purpose built and brand specific facilities throughout Europe.

Unit 10, North Park, North Road, Finglas, Dublin 11 is a large high profile building fitted out to a showroom standard from it's previous uses and is ideally suited to be remodelled as a furniture showroom and sales outlet with little or no impact on neighbouring occupiers in terms of footfall numbers, car parking and traffic movements.

We have clearly demonstrated, as applicants through Hughes Planning & Development Consultants justifying the case to support this Section 5 application and the Traffic Assessment prepared by TPS M Moran & Associates (Traffic & Transportation Planning Consultants) which confirms that the existing car sales & showroom operating generates significantly more daily and peak hour trips compared to that of the proposed furniture showroom outlet.

Therefore, we trust your support in our application to change the use of Unit 10 North Park, North Road, J5 M50, Finglas, Dublin 11, D11 R761, 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.

Yours sincerely,


Kilian Coyle

