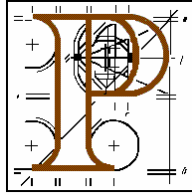


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2009

## Fingal County

**Planning Register Reference Number: F08A/0373**

An Bord Pleanála Reference Number: PL 06F.232186

**APPEAL** by Peter Maxwell of 8 Binn Eadair View, Sutton, Dublin and by others against the decision made on the 28<sup>th</sup> day of November, 2008 by Fingal County Council to grant subject to conditions a permission to Alec and Tom Flood care of BPS Planning Consultants of 3 Wentworth Place, Wicklow Town, County Wicklow in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** (1) The demolition of two existing single-storey factory units and other associated buildings of approximately 3,800 square metres in total and modifications to an existing red brick building, formally known as the 'Engine House', to provide residential accommodation – this is not a protected structure. (2) The erection of a residential development on this site adjacent to the existing dart line comprising 82 number residential units which are contained in three number new separate three, five and eight storey blocks and the former 'Engine House' building to be modified, a further one number new two-storey block will contain a 408 square metres crèche. The residential units to consist of five number three bedroom duplex units, each approximately 110 square metres, nine number three bedroom apartments, between 96 and 175 square metres, 54 number two bedroom apartments between 78 and 97 square metres and 14 number one bedroom apartments between 55 and 63 square metres. (3) A single-storey 4,685 square metres underground basement, consisting of 133 number car parking bays, 105 bicycle stands, refuse storage, and rainwater harvesting storage tanks. (4) Solar panels and water storage tanks to roofs. (5) All associated site development works and landscaping required to facilitate the development, including a new ESB substation building and five number car parking bays to serve crèche; all at a 0.652 hectares site at the end of Railway Avenue, Sutton, Dublin.

## DECISION

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

### MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

### REASONS AND CONSIDERATIONS

Having regard to the residential zoning of the site, to the proximity to public transport, and to the nature and design of the development as modified by this grant of permission, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard in particular to the specific nature of the two recommendations for refusal as they pertained to Blocks C, E and A, and considered that the conditions dealing with either their removal or amendment enabled the proposed development to be dealt with in the context of a grant upholding the planning authority decision.

### CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by the planning authority on the 12<sup>th</sup> day of August, 2008, and on the 9<sup>th</sup> day of November, 2008 except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. Block A (the crèche) shall be omitted from this development, and the resulting area shall be landscaped to the satisfaction of the planning authority. Revised drawings shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interest of traffic safety and convenience and of visual amenity.

3. (1) Block C shall be amended by omission of the first floor.
- (2) Block E shall be amended by the omission of the second, fifth and sixth floors.

Revised drawings showing compliance with the above requirements shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interest of the residential amenity of adjoining properties.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

5. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
- (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system or soak pits.

**Reason:** In the interest of public health.

6. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

7. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of pedestrian safety.

8. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interest of amenity and public safety.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. [All existing over ground cables shall be relocated underground as part of the site development works.]

**Reason:** In the interest of visual and residential amenity.

10. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. [The proposed name(s) shall be based on local historical or topographical features or other alternatives acceptable to the planning authority]. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interests of urban legibility [and to ensure the use of locally appropriate place names for new residential areas].

11. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots.

**Reason:** In order to ensure the development of the public open space areas and their continued use for this purpose.

12. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

13. Site development and building works shall be carried only out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the [residential] amenities of property in the vicinity.

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. [The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.].

**Reason:** In the interests of sustainable waste management.

15. The following requirements of the planning authority shall be complied with in full: -

- (a) the lunette window on the east elevation is show on drawing number pD[ga]00 as having three segments (that is, Diocletian window). However, in reality, it has seven segments (that is, fanlight) as depicted on drawing number pD[ga]03 and this glazing pattern should be retained,
- (b) there is a discrepancy between the rooflights depicted on the elevations and those shown on the roof plan and second floor plan. Those shown on the plans would appear to correctly indicate the number and location of rooflights it is intended to insert. This would place three large rooflights on the south elevation, which is the most prominent elevation with the proposed development. It may perhaps be worth considering the omission of one of the rooflights over the living/dining area so that there is symmetry to the positioning of the rooflights on this pitch,
- (c) details of the proposed methodology for the removal of graffiti shall be agreed with the Conservation Officer prior to commencement of these works, and
- (d) a full internal and external photographic record of all buildings to be demolished shall be submitted to the planning authority.

**Reason:** In the interest of conservation and proper planning and sustainable development of the area

16. All bathroom/en suite windows shall be fitted and permanently maintained with obscure glass.

**Reason:** In the interest of residential amenity.

17. The proposed car parking spaces shall be reserved solely for the use of the occupants of the proposed apartments and their visitors. These dedicated car parking spaces shall not be sold off separately or sub-let.

**Reason:** To comply with the Development Plan and DTO policy on car parking provision.

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

19. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this                    day of                    2009.**