

An
Bord
Pleanála

Board Direction
BD-016883-24
ABP-317316-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/07/2024.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the pattern of development in the area and its residential zoning under the Fingal County Development Plan 2023-2029, and to adopted policy and standards for urban consolidation and the development of infill sites (Policy CSP34 and CSP38) and in protecting the special interest and character of an Architectural Conservation Area (Policy HCAP14), it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the character of the area or of the Architectural Conservation Area, or the amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed 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 25 April 2023, except as may

otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows

a) The elevation treatments and external finishes for House Number 1 shall be revised, having regard to its position on the subject site, fronting on to the streetscape within the Lusk Architectural Conservation Area.

b) The frosted glazing in the window serving Bedroom No. 3 in Houses No. 2, 3 and 4 shall be replaced with clear glazing.

c) The window on the western elevation serving Bedroom No. 2 in Houses 5 and 6 shall be omitted and Bedrooms Nos. 2 and 3 shall be merged in Houses 5 and 6, in order to prevent overlooking of adjacent dwellings and their private open space.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity and the protection of the character of the Architectural Conservation Area.

3. Prior to commencement of development, the internal road layout to be agreed in writing with the Planning Authority. The developer shall also submit revised plans and particulars which include full details on internal road surfacing and improved pedestrian crossing across vehicular access junction, which shall be designed and constructed to the satisfaction of the Planning Authority, with all associated costs borne by the developer.

Reason: In the interest of clarity, traffic safety, to improve permeability and the proper planning and sustainable development of the area.

4. Drainage arrangements, including the attenuation and 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.

5. The developer shall enter into water and wastewater connection agreement(s) with Uisce Eireann prior to commencement of development.

Reason: In the interest of orderly development.

6. (a) The developer is required to employ a qualified archaeologist to monitor under licence all groundworks associated with the development.

(b) Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g., preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.

(c) The Planning Authority and the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; (b) Details of site security fencing and hoardings; (c) Details of on-site car parking facilities for site workers during the course of construction; (d) Measures to prevent the spillage or deposit of clay, rubble or other

debris on the public road network; (e) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels; (f) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; (g) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil and (h) construction hours.

Reason: In the interest of amenities, public health and safety.

8. Public lighting shall be 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 dwelling hereby permitted.

Reason: In the interests 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.

Reason: In the interests of visual and residential amenity.

10. (a) The site shall be landscaped in accordance with the landscaping masterplan submitted with this application.

(b) All existing trees and hedging to be retained and proposed new planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

(c) Prior to the commencement of development, notwithstanding details provided with this application, full details of all boundary treatment(s) (including fencing types) shall be submitted for the written approval of the Planning Authority,

Reason: In the interest of clarity, visual amenity and the proper planning and sustainable development of the area.

11. Details of the materials, colours and textures of all the external finishes within the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

12. The naming and numbering of the scheme shall be agreed in writing with the planning authority prior to the occupation of the dwellings.

Reason: In the interest of orderly street numbering.

13. All of the in-curtilage car parking spaces shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with this requirement shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: in the interest of sustainable transportation.

14. a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

15. 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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála 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 of the area.

16. 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, drains, 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 of the development.

17. The developer shall pay to the planning authority a financial contribution in lieu of the public open space requirement in respect of public open space benefiting development in the area of the planning authority that is provided and intended to be provided by, or on behalf of the authority, in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended.

The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the scheme at the time of payment. Details of the application of the terms of the scheme shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the scheme.

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

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution

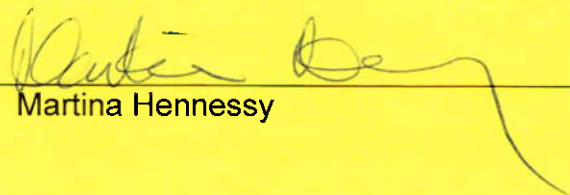
shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application or the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Note:

While the Board agreed with the Inspector's recommendation to grant permission, the Board considered that House 1 should not be omitted from the proposed development. The Board took the view that, given the variety of building forms in the vicinity of the subject site and within the overall Architectural Conservation Area, revised treatment of the elevations and external finishes would enable House 1 to successfully integrate within the streetscape and ACA.

Board Member


Martina Hennessy

Date: 01/07/2024