

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Fingal County

**Planning Register Reference Number: F15A/0093**

An Bord Pleanála Reference Number: PL 06F.245710

**APPEAL** by Crasswaithe Developments Limited care of Downey Planning of 1 Westland Square, Pearse Street, Dublin against the decision made on the 7<sup>th</sup> day of October, 2015 by Fingal County Council to refuse permission in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Construction of a mixed use residential and retail development comprising 52 number residential units consisting of 43 number two and a half storey dwellings (28 number three bedroom terraced units, five number four bedroom end of terrace units, and 10 number three bedroom detached units); a four–storey mixed use block containing nine number two bedroom apartments and one number retail unit (357 square metres gross floor area); 122 number surface level car parking spaces and 11 number bicycle parking spaces, bin storage, one number ESB substation and all associated site development, engineering, roads and footpaths, landscaping and boundary treatment works including revised vehicular entrance to the Malahide Road. The proposed development will also consist of the demolition of the existing former “Champions Public House” and ancillary store and sheds in order to facilitate this proposed development, all at the former Champions Public House, its car park and lands to its rear, Malahide Road, Balgriffin, County 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 zoning for the site, to the layout of the proposal making provision for future road proposals in the area, to the quality and quantity of open space to be provided and to the nature of the design incorporating courtyards with good quality active and passive surveillance, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenity of the area, would not be prejudicial to the provision of future road proposals in the area, would be acceptable in terms of traffic safety and convenience 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 considered, given the zoning of the site, that the proposal had made adequate provision for indicative future road proposals as indicated in the Fingal County Development Plan 2011-2017. The proposed development would not be considered premature pending the adoption of a Local Area Plan in accordance with the development plan, as to do so in this instance would conflict with the objective to provide housing on appropriately zoned and serviced urban land. Furthermore, the Board considered that, if carried out in accordance with the conditions attached hereto, adequate open space would be included in the scheme, and that it was appropriate to consider the proposed surface water detention areas as part of the open space calculations.

In relation to the reasons for refusal of permission by the planning authority in which it is indicated that the proposed development would constitute a material contravention of the Development Plan, the Board considered that the SUDS proposals would form an attractive element of the public open space and, subject to amendment by condition, the open space provision would not, therefore constitute a materially contravention of the development plan.

Furthermore, the Board had regard to the nature of the drain on the site and considered that the provision of an extensive riparian corridor along such a drain in the context of the site, was not a requirement as set out in the Development Plan and considered that there were conflicting objectives in the Development Plan given the zoning of the site. In assessing these matters, the Board had regard to national policy requiring efficient use of zoned, serviced residential land as stated in the "Sustainable Residential Development Guidelines for Planning Authorities in Urban Areas (Cities, Towns and Villages" issued by the Department of the Environment, Heritage and Local Government in May, 2009.

### **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 submitted on the 14<sup>th</sup> day of September, 2015, 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 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 layout shall be amended as follows:
  - (a) The amount of car parking in courtyard 02 shall be reduced to 28 spaces. The car parking shall be grouped such that there shall be two lines of car parking spaces accessed off a single six metres wide access way, located at the West side of this courtyard, with a single hammerhead at the Northern end. Access to the houses at the Eastern side of this courtyard shall be by pedestrian access over the proposed open space area. The roadway shown at the Eastern and the Northern end of this courtyard shall be incorporated into the open space provision for the scheme.
  - (b) House type A1 shall be amended to allow for the omission of the second floor window in the gables of these houses and to provide for the widening of the other window to the affected bedrooms.

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

**Reason:** To ensure adequate open space provision and to prevent overlooking in the interest of residential amenity.

3. The proposed commercial unit, apartments and parking spaces 01 through 18 shall be omitted from the scheme. Any proposal to develop the area thus vacated shall be subject to a further planning permission.

**Reason:** The proposed apartment building would be unsympathetic to its surroundings by reason of excessive height, inappropriate scale, unco-ordinated window openings and materials not in sympathy with the existing streetscape. The removal of this element of the proposal is necessitated in the interest of visual amenity.

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.

5. Public lighting shall be provided in accordance with a scheme, 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 interests of amenity and public safety.

6. 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 interest of visual and residential amenity.

7.
  - (a) Screen walls shall be provided to screen rear gardens from public view. Such walls shall be two metres in height above ground level.
  - (b) Details of the layout, the materials, and external finishes of the screen walls shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of construction of the dwellings.

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

8. All rear gardens shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides, to the written satisfaction of the planning authority.

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

9. 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. 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 interest of urban legibility.

10. 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 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 for the area.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

12. 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.

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

13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

14. 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 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.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

15. 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) Location of areas for construction site offices and staff facilities;
  - (c) Details of site security fencing and hoardings;
  - (d) Details of on-site car parking facilities for site workers during the course of construction;
  - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
  - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
  - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
  - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
  - (i) Provision of parking for existing properties at [specify locations] during the construction period;
  - (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
  - (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
  - (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;



- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

16. The developer shall pay to the planning authority a financial contribution in lieu of the provision of open space as provided for under objective OS02B of the development plan. This amount, and the method of payment shall be agreed with the planning authority prior to commencement of development.

**Reason:** In the interest of the amenities of the area.

17. 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 and maintenance until taken in charge by the local authority 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 or maintenance 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.

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 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 the permission.

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

**Dated this            day of            2016.**