

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Fingal County

Planning Register Reference Number: F15A/0390

An Bord Pleanála Reference Number: PL 06F.246453

APPEAL by Paul Arnold and others care of 2 Ashton Close, Ashton Broc, Swords, County Dublin and by Gannon Properties care of Conroy Crowe Kelly, Architects, 65 Merrion Square, Dublin against the decision made on the 23 day of March, 2016 by Fingal County Council to grant subject to conditions a permission to the said Gannon Properties in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: The construction of 246 dwellings on lands north of the Glen Ellan Road, Oldtown, Swords, County Dublin, accessed from the Glen Ellan Road and the new Millers Glen development, to which this is an extension. The development comprises 16 number four-bedroom two-storey houses, six number four-bedroom three-storey houses and 112 number three-bedroom two-storey houses. The proposed duplex units comprise 41 number three-bedroom and three number four-bedroom units, with 11 number two-bedroom and 11 number three-bedroom apartments overhead on the second floor, plus three number three-bedroom end of terrace triplex units. There are 13 number two-bedroom two-storey townhouses forming part of the duplex complex. There are two four-storey pavilion blocks of apartments comprising eight number one-bedroom apartments and 22 number two-bedroom apartments. The development includes all associated site works and infrastructure which includes new road connections and ancillary works to the Millers Glen development, landscaped open space, internal roads, paths, public lighting, utilities, drainage and surface water attenuation as amended by the revised public notice received by the planning authority on the 2nd day of February, 2016.

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

The majority of the site of the proposed development is zoned 'RA' in the Fingal County Development Plan 2011 – 2017. The stated objective of which zoning objective is "to provide for new residential communities in accordance with approved local area plans and subject to the provision of necessary social and physical infrastructure". The entire site is also located within the area of the Oldtown/Mooretown Local Area Plan 2010. Having regard to this zoning objective, the nature and scale of the proposed development and to the character and pattern of existing and permitted development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or other amenities of the area, would not be prejudicial to public health, would not pose an unacceptable flood risk, 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.

The Board completed a screening exercise, taking into account the screening report submitted with the application and the Inspector's report and submissions on file. The Board accepted and adopted the Planning Inspector's analysis in relation to Appropriate Assessment screening and concurred with her conclusions. The Board considered that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any European site, in particular the Malahide Estuary Special Area of Conservation (Site Code 0205) or the Malahide Estuary Special Protection Area (Site Code 4025) in view of the site's conservation objectives.

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 to the planning authority on 22nd day of January, 2016 and the 2nd day of February 2016, 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 development shall be amended to provide for a total of 172 dwelling units only, a crèche and open space facilities as follows:-
 - (a) Proposed Block A4 (units numbers 198-204 inclusive), Block A1 (Units numbers 205-210 inclusive), Block C1 (Units numbers 211-229 inclusive), Block A5 (Units numbers 230-235 inclusive), Block A4 (Units numbers 236-242 inclusive), Block C2 (Units numbers 243-261 inclusive) Block B (Units numbers 180-197 inclusive), Units numbers 117, 118 and 119 together with the proposed gate lodge duplex (Unit number 179) and the proposed crèche as indicated on drawing number 1432 P 05 (Site Layout – Taking-in-Charge) received by the planning authority on the 22nd day of January, 2016 shall be omitted in their entirety and the lands retained free of development and utilised as public open space with associated pedestrian and cycle linkages.
 - (b) Dwelling Units numbers 109-111 inclusive as indicated on Drawing No. 1432 P 05 (Site Layout – Taking-in-Charge) lodged with the planning authority on the 22nd day of January, 2016 shall be omitted and substituted with a crèche facility incorporating outdoor play facilities and set down and collection areas. The crèche facility shall be in accordance with the recommendations set out in, “*Childcare Facilities Guidelines for Planning Authorities*” issued by the Department of the Environment, Heritage and Local Government in 2001.

- (c) Road No 1.0 shall be amended so that it terminates at the junction with Road 3.6 (as indicated on Site Layout Drawing No. 1432 P04 (1 of 2) lodged with the planning authority on 21st, August 2015)

Prior to the commencement of development, the applicant shall submit for the written agreement of the planning authority revised site layout plans showing compliance with the above requirements together with floor plan, section and elevation drawings for the crèche facility.

Reason: To comply with the Oldtown Mooretown Local Area Plan, 2010, national policy for provision for childcare facilities, and in the interest of the amenities of the area and the proper planning and sustainable development of the area.

3. Prior to the commencement of development, full design details for the proposed pedestrian linkage between the development at Road 3.4 (as indicated on Site Layout Drawing No. 1432 P04 (1 of 2) lodged with the planning authority on 21st, August 2015) and the existing residential development adjoining the eastern boundary of the site shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of clarity and appropriate permeability, and in the interest of the proper planning and sustainable development of the area.

4. Prior to the commencement of the development, a time frame for the implementation of the works required under Section 4 – ‘Phasing and Implementation’ of the Oldtown Mooretown Local Area Plan to include time and mechanism for delivery of upgrade works at Rathbeale Road/Murrough Road Junction and Castlegrange Junction shall be submitted to, and agreed in writing with, the planning authority.

Reason: To ensure consistency with the Oldtown/Mooretown Local Area Plan, 2010 and the interest of the proper planning and sustainable development of the area.

5. 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.

6. Water supply and drainage arrangements, including attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and shall include the following:

- (a) prior to commencement of development, the proposed wetlands to discharge to the Broad Meadow River shall be completed and commissioned in accordance with the requirements of the planning authority, and

- (b) details of the final design of attenuation and detention arrangements shall be submitted to and agreed in writing with the planning authority and shall include the finished levels, gradients, boundary treatment and planting if applicable.

Reason: In the interest of public health and orderly development.

7. Prior to the commencement of development, the applicant shall submit to the planning authority confirmation in writing of availability of sufficient capacity following upgrade works at Swords Treatment Plant and confirmation of a connection agreement for connection directly or indirectly to the wastewater network and public water supply.

Reason: In the interest of public health, orderly development and to ensure the availability of adequate services and infrastructural facilities.

8. Details of the materials and finishes, including textures and colours for the external facades, roof materials and boundary walls, for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the development.

Reason: In the interest of visual amenity and clarity.

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. 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 interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

10. Public lighting shall be provided in accordance with a scheme, to 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.

11. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

12. Details for public open space provision and landscaping details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development and shall include provision for the following requirements:-
- (a) design, layout and time frame details for the delivery of Class 1 open space open space to include a schedule of works,
 - (b) detailed proposals for play areas which shall be made available for use prior to the occupation of the development, and
 - (c) full details of landscaping for Class 2 public open space and incidental public spaces inclusive of specifications and schedules for planting, lighting, fixtures and seating and boundary treatment where applicable.

Reason: In the interest of visual amenity and the residential amenities of future occupants.

13. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and,
 - (b) implement in entirety the Remedial and Reductive measures set out in section 13.6 of the Addendum Environmental Impact Report submitted with the application on 21st day of August, 2015 and shall submit report, containing the results of the assessment, to the planning authority for written agreement prior to construction.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

14. 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.

15. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion, and maintenance until taken in charge by the local authority, of roads, sewers, watermains, drains, car parks, open spaces 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 security to be lodged shall be as follows -

- (a) an approved insurance company bond in the sum of €688,000 (six hundred and eighty-eight thousand euro), or
- (b) a cash sum of €430,000 (four hundred and thirty thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or
- (c) such other security as may be accepted in writing by the planning authority.

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

16. 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.

17. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, towards the provision of public open space facilities in lieu of the shortfall in public open space provision in accordance with the requirements of the Development Plan. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

Dated this day of 2016.