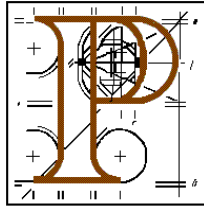


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Fingal County

Planning Register Reference Number: F16A/0152

An Bord Pleanála Reference Number: PL 06F.247545

APPEAL by Skyrise Developments Limited care of Hughes Planning and Development Consultants of The Mash House, Distillery Road, Dublin and by Carol Archbold and others care of Ceardean Limited of D8 Studios, 9 Dolphins Barn, South Circular Road, Dublin against the decision made on the 13th day of October, 2016 by Fingal County Council to grant subject to conditions a permission to the said Skyrise Developments Limited in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of 46 number two-storey dwellings (four number detached four bedroom; 22 number semi-detached three bedroom; 15 number terraced two bedroom and five number detached three bedroom), vehicular and pedestrian access from the Ashgrove development, internal roads, footpaths, public open space, landscaping, boundary treatments, street lighting, SUDS drainage, attenuation tanks, piped and other services, ESB substations and all other ancillary site development works necessary to facilitate the development. The development also provides for the decommissioning of part of an existing 225 millimetres foul sewer and construction of a new 225 millimetres foul sewer connecting the site with the mains drainage network on the Malahide Road (R107), all on lands in the townlands of Ballymacartle and Greenwood in the Parish of Kinsaley, north of Ashgrove and Baskin Cottages and Baskin Lane (L2055) at Cloghran, 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 of the site and the planning history in the vicinity of the site, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of property in the vicinity, would not adversely affect the architectural character of the wider landholding nor the setting of protected structures in the area, and would be acceptable in terms of pedestrian and traffic safety. 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 submitted on the 19th day of September 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. A Japanese Knotweed Invasive Species Management Plan, which shall include measures for the eradication of the Invasive Species on the site, shall be submitted to, and agreed in writing with, the planning authority. The areas of the site where the species has been identified, as set out in Landscape Plan Drawing number 300 Rev. G, submitted to the planning authority on the 19th day of September 2016, shall be fenced off prior to any construction commencing on the overall landholding, and shall be maintained in place until such time as the planning authority is satisfied that all Japanese Knotweed has been completely eradicated from the site. No construction or excavation works shall take place on sites 45, 46, 23, 24 and 25, as outlined on Site Layout Plan 2014-94-AI-101, submitted to the planning authority on the 19th day of September 2016, until the Japanese Knotweed has been eradicated from the site to the written satisfaction of the planning authority. The developer shall consult with the planning authority's Biodiversity Officer in the preparation of the Management Plan.

Reason: To prevent the spread of Japanese Knotweed.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

4. (a) A scheme indicating the external boundary treatments to the site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide for the provision of a screen along the southern site boundary, where it adjoins the rear gardens of adjoining residential properties consisting predominantly of trees, shrubs and hedging of indigenous species. The agreed screen planting shall be carried out and shall be completed within the first planting season following the substantial completion of external construction works.

- (b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development, in the interests of residential and visual amenity.

- 5. All rear gardens shall be bounded internally with block walls, 1.8 metres in height, which shall be rendered and capped. The proposed post and timber panel boundary treatment shall not be used. Other than this stipulation, and the requirements of condition number 4 of this permission, all other boundary treatments shall be in accordance with the drawings submitted to the planning authority on the 19th day of September, 2016.

Reason: In order to ensure the provision of durable boundary treatment, in the interest of visual amenity.

- 6. The internal noise levels, when measured at the windows of the proposed development, shall not exceed:
 - (a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and
 - (b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

Reason: In the interest of residential amenity, having regard to the location of the subject site within the Dublin Airport Outer Noise Zone.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water and provision for existing foul sewer connections within the site, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed standards of the planning authority for such works. No gates, security barrier or security hut shall be constructed or placed at the entrance to this development from the neighbouring Ashgrove development.

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

9. Proposals for a development/estate 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 signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

10. The areas of open space shown on the lodged plans, up to the “RS zoning line”, as indicated on drawing number 300, Rev 9 ‘Landscape Plan’, as submitted on the 19th day of September 2016, shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. All of this work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority. When the estate is taken in charge, this open space, up to the RS zoning line (and not as shown on drawing number 2014-94-AI-107) shall be vested in the planning authority, at no cost to the authority, as public open space.

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

11. The developer shall implement all the recommendations pertaining to tree retention as outlined within the submitted Arboricultural Report submitted by The Tree File Limited in August 2016. Prior to commencement of development on site, a site meeting shall be arranged between the planning authority and the appointed arboricultural consultant to agree tree protection measures, the precise location of the protective fencing, and any other tree protection measures required during the course of the works. All works on trees shall follow proper arboricultural techniques conforming to BS3998: 2010 Tree Works – Recommendations. Retained trees should be protected during the course of development works in accordance with the provisions of BS5837:2012, Trees in relation to design, demolition and construction – Recommendations. A tree bond of €15,000 will be required to be lodged with the planning authority prior to commencement of development in order to ensure that the trees are protected and maintained in good condition throughout the course of development. This bond shall be held by the planning authority for a period of three years post construction which may be extended in the event of possible construction related defects.

Reason: In the interest of visual and residential amenity.

12. 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 residential unit.

Reason: In the interest of amenity and public safety.

13. 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.

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

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 noise management measures and off-site disposal of construction/demolition waste. Site compounds and storage of all materials shall not take place on the open space areas (as defined by condition number 10 of this permission) and shall not take place inside the line of the tree protection measures, referred to in condition number 11 of this permission).

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

16. Having regard to the Natura Impact Statement and Ecological Assessment submitted with the application, the detailed Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, shall incorporate a Mitigation Implementation Schedule to address environmental implications of the development. This schedule shall contain:

- (a) A numbered list of all the mitigation measures to be implemented, as set out within the Ecological Assessment submitted with the application (by TBS in September, 2016).
- (b) The person(s) responsible for implementation of each measure and the timing of each mitigation measure.
- (c) A map outlining the mitigation measures.

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

17. A plan containing details of 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 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: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

18. 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 interest of sustainable waste management.

19. 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.

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 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.

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, as amended. 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 An Bord Pleanála a 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.

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

Dated this day of 2017.