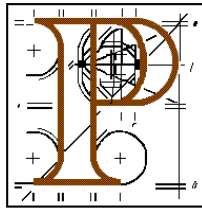


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

## Fingal County

**Planning Register Reference Number: FW16A/0093**

An Bord Pleanála Reference Number: PL 06F.247769

**APPEAL** by Howard Mahony of 10 Bramley Way, Castleknock, Dublin and by Roderic O’Gorman of 1 Avon Lodge, The Plaza, Main Street, Blanchardstown, Dublin against the decision made on the 23rd day of November, 2016 by Fingal County Council to grant subject to conditions a permission to Cherryfield Courts Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** A residential development on a site at Diswellstown, Castleknock, Dublin. The site is located to the south of the permitted Phase 1 ‘Hamilton Park’ development, planning register reference number FW14A/0066, currently under construction, to the west by M50 Motorway, to the north and west of Diswellstown Manor and Luttrellstown Road and to the east of Saint Patrick’s National School and Diswelletwon Road roundabout. The development includes the provision of 179 number dwelling units, including 126 number houses and 53 number apartments, and a crèche, and comprises the following: 64 number three bedroom semi-detached dwellings (46 number House Type B, two number House Type B2, 13 number House Type C, and three number House Type C2); one number three bedroom detached dwelling (one number House Type C1); 55 number four bedroom semi-detached dwellings (35 number House Type D, one number House Type D5, 16 number House Type E4 and three number House Type E5); six number four bedroom detached dwelling units (one number House Type D1, one number House Type F and four number House Type F3); one number four storey apartment block (Block 7), over basement/undercroft car park, comprising of 53 number residential units (eight

number one bedroom apartments, 41 number two bedroom apartments, four number three bedroom apartments). The apartment block contains one number crèche unit with a Gross Floor Area of 355 square metres at ground floor level, with an associated outdoor play area. The development includes all associated access roads, surface and undercroft car parking, public open space, landscaping, boundary walls and fences, roads, cycle paths, footpaths, foul and surface water drainage, and all associated site development works on the application site area of 4.95 hectares. The Phase 2 development will also be served by the access road, infrastructure, and open space permitted for Phase 1, under planning register reference number FW14A/0066. The Phase 2 application includes part of the site of the previously approved Phase 1 development and proposes alterations to elements of the Phase 1 permission including revisions to the communal open space for Apartment Block 6A and 6B, including relocation of bicycle stands and a raised surface on the access boulevard. The proposed development amends the scheme permitted under planning register reference number F08A/1425 and An Bord Pleanála appeal reference number PL06F.235189 on this site, and partly amends planning register reference number FW14A/0066, and is proposed as Phase 2 of the overall development of these lands.

## **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 planning history of the site (including an existing current planning permission for a similar form of development), the zoning of the lands for residential development in the Fingal County Development Plan 2017 to 2023 (and in previous Development Plans), the detailed design of the development, including the orientation of dwellings and of the apartment block relative to surrounding residential development, and the arrangements for pedestrian, cyclist and vehicle connectivity, it is considered that, subject to compliance with the conditions set out below, the proposed development would be appropriate in scale and form, would comply with the provisions of the current Development Plan in terms of density, would not give rise to undue overlooking or overshadowing of adjoining properties, and would not lead to significant traffic congestion or be unacceptable in terms of pedestrian 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 received by the planning authority on the 29th day of September, 2016 and the 2nd day of November 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 permission relates to the provision of 179 number dwellings, comprising 126 number houses and 53 number apartments, a crèche, a piece of public art, landscaping and boundary treatment, and associated site works, unless otherwise altered by any of the conditions of this permission.

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

3. The proposed development shall be amended as follows:-

- (a) The southern elevation of the apartment block shall be modified in accordance with “proposed amended option A”, as submitted to An Bord Pleanála on the 26th day of January, 2017.
- (b) A revised parking layout for the apartment and crèche development which shall include the introduction of planted buffer areas to the parking area along the western side of the apartment block.
- (c) A raised pedestrian crossing on the southern arm of the Diswellstown Avenue roundabout shall be provided.
- (d) A raised pedestrian crossing ramp from the crèche to the school shall be provided.
- (e) A new pedestrian and cycleway link shall be provided to the south of the site, to link the proposed development to Diswellstown Manor. The new link shall be adjacent to house number 126.
- (f) All WCs, bathroom and en-suite windows shall be fitted and permanently maintained with obscured glazing.

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 interests of residential amenity, pedestrian and traffic safety.

4. The landscaping shall be carried out and completed in accordance with the details submitted to the planning authority on the 29th day of September 2016, with the following amendments:-

- (a) Street trees located to the east and west of the proposed apartment block shall be provided within constructed tree pits (with adequate rooting volumes) on these roads.

- (b) Additional tree planting, in accordance with the details submitted to An Bord Pleanála on the 26th day of January 2017, shall be provided in the grass strip running along the footpath on the southern side of the apartment block, immediately inside the line of the boundary wall with Diswellstown Manor (except at the location of the pedestrian link/access referred to in condition 7). Such tree planting shall consist of birch trees.

A revised landscaping plan, providing for these amendments, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed landscape plan shall be carried out and completed no later than the first planting season after the completion of the internal road layout.

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

5. The ground floor of the apartment block, other than the crèche, shall be used solely for residential purposes. Any other use of this area shall be the subject of a separate grant of planning permission.

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

6. Prior to the commencement of development, the applicant shall submit to the planning authority, for its written consent, proposals for a piece of art to comply with the requirements of the Fingal County Development Plan 2017-2023, and shall provide such public art in accordance with the timeframe which shall be specified by the authority as part of its consent for the public art.

**Reason:** In the interest of visual amenity, and in order to comply with the provisions of the Development Plan.

7. The crèche shall be completed, and the pedestrian access/link to the south of the crèche into the adjoining Diswellstown Manor housing development shall be opened, no later than the completion of the first 75 number residential units authorised by this planning permission. Prior to the first operation of the crèche, the operator shall submit to, and agree in writing with, the planning authority details of the proposed signage for the crèche. No other signage, other than that agreed in writing with the planning authority under this condition, shall be erected without a prior grant of planning permission.

**Reason:** To ensure the timely delivery of the crèche and the adjoining pedestrian link, and in the interest of visual amenity.

8. The rectangular site measuring circa 4,544 square metres immediately to the north of Saint Patrick's School National School, as delineated as being in the ownership of the applicant on drawing number pSO1, submitted to the planning authority on the 29th day of June 2016, shall be kept free of development and shall be maintained to a satisfactory standard in accordance with the requirements of the planning authority.

**Reason:** In the interest of preserving lands for the future potential expansion of Saint Patrick's National School.

9. The grassland area delineated on drawing number pS(fi)01, submitted to the planning authority on the 29th day of September, 2016 indicated as being in the ownership of the applicant shall not be fenced off and shall be graded, seeded and maintained as open space.

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

10. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape plan submitted on the 29th day of September, 2016. 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. At the time of taking in charge, these open spaces shall be vested in the local 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. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings, and to protect the residential amenities of adjoining properties.

12. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. Windows and doors shall not be of uPVC. Roof colours of the houses shall be blue-black or slate grey only, including ridge tiles.

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

13. Proposals for an estate/street name, house and apartment 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 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.

14. No gates, pillars, fences, walls or similar shall be placed at the vehicular entrance to the site. The construction, erection within or bounding the front curtilage of a house (area forward of the front wall of the house) of a gate, gateway, railing, fence or wall shall not be permitted, notwithstanding the provisions of Class 5, Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

**Reason:** To retain the open plan layout of the development, in the interest of visual amenity.

15. Water supply and 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.

16. All trees shown to be retained on the site shall be adequately protected during the period of construction in accordance with BS: 5837. Such measures shall include a protection fence which shall be erected beyond the branch spread, and no construction work or storage shall be carried out within the protective barrier.

**Reason:** In the interests of visual amenity and of enhancing the residential amenities of the development.

17. The development hereby permitted, including all roads, footpaths, and public lighting, shall be carried out in accordance with the construction standards and requirements of the local authority for taking in charge. With the exception of the apartment block and crèche, and associated areas, the development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by a private management company.

**Reason:** In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the remainder of the development, other than the apartment block and crèche, when completed, can be taken in charge by the planning authority.

18. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, and along the pedestrian/cycleway links to adjoining lands, 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.

19. The apartment block, including the proposed crèche and associated play area, and associated car parking and landscaped areas in the vicinity of the apartment block, as indicated on drawing number pS(cfi)\_05, submitted to the planning authority on the 2nd day of November 2016, shall be managed and maintained by a legally constituted management company. 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 part of the development.



20. 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) A traffic management plan to ensure the safety of all road users, residents and patrons of St. Patrick's National School during construction (to include a mechanism for liaison with the school throughout the construction period);
  - (b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - (c) Location of areas for construction site offices and staff facilities;
  - (d) Details of site security fencing and hoardings;
  - (e) Details of on-site car parking facilities for site workers during the course of construction;
  - (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
  - (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
  - (h) 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; and
  - (i) 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.

21. 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.

22. 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.

23. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 1000 to 1600 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 amenities of property in the vicinity.

24. 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) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

25. 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 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.

26. 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.

27. 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 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.**