



Planning and Development Acts 2000 to 2016

Planning Authority: Fingal County Council

Planning Register Reference Number: F15A/0565

Appeal by Robert Casey care of Braniff Associates of 5 Windsor Avenue North, Malone Road, Belfast, Northern Ireland and by others against the decision made on the 1st day of December, 2016 by Fingal County Council to grant subject to conditions a permission to Station Construction Limited care of Conroy Crowe Kelly Architects and Urban Designers of 65 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The demolition of all existing buildings and structures, including two number dwellings to facilitate the comprehensive redevelopment of a site measuring approximately 7.2 hectares in extent. The proposed mixed use development is arranged in seven blocks ranging in height from single storey to three-storeys and comprising 154 number new dwellings (terraced, semi-detached, detached and apartments), to include 67 number two bedroom dwellings, 79 number three bedroom dwellings and 8 number four bedroom dwellings and a total of 12,320 square metres (gross floor area) of non-residential floor space, comprising an anchor retail store of 4,324 square metres, discount food store of 1,660 square metres, retail units totalling 1,044 square metres (inclusive of 136 square metres of petrol filling station shop), food and drink/retail services units totalling 1,828 square metres (including two number hot food take away units) and non-retail services uses of 3,026 square metres. In addition to the above, a drive-thru restaurant of 258 square

metres, crèche of 438 square metres, gym/fitness centre of 1,521 square metres and petrol filling station fronting Station Road, all with ancillary car parking provision and the provision of new vehicular and pedestrian accesses onto the site from Saddler's Place, Scholar's Walk, Joyce's Road, Norseman's Walk and Raheny Lane together with new vehicular and pedestrian accesses onto the site off Station Road, all associated works, landscaping and infrastructure services provision (including alterations to the layout at Saddler's Place to provide sub-surface attenuation tank), all at Lusk and Lough Common (townlands), Station Road, Lusk, 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 designation of Lusk as a moderate sustainable growth town in the settlement hierarchy set out in the Regional Planning Guidelines for the Greater Dublin Area 2010-2022,
- to the retail strategy for the Greater Dublin Area 2008-2016, issued by the Dublin and Mid-East Regional Authorities,

- to the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in 2012,
- to the Guidelines for Planning Authorities – Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Community and Local Government in May 2009,
- to the Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013,
- to the provisions of the Fingal County Development Plan 2017-2023, which zones most of the subject site for town and district centre purposes and the remainder for residential purposes, and which requires the lands to be developed in accordance with the Station Road Masterplan,
- to the mix of residential and retail/commercial development proposed,
- to the location of the site close to the existing town centre and within the ambit of the R127 Lusk Ring Road, and
- to the pattern of development in the area, including adjacent residential development,

it is considered that the proposed development, subject to compliance with the conditions set out below, including modifications to the scheme, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing historic character of the area, would not have an adverse effect on the viability and vitality of the town centre of Lusk and on retail development within the town, would be acceptable in terms of pedestrian and traffic safety, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 lodged with the planning authority on the 4th 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 proposed development shall be amended as follows: -

The proposed drive-through restaurant and discount retail unit in Block 6, and the proposed petrol filling station in Block 5B, shall be omitted from the development. The area thus released shall be the subject of a separate planning application for a primarily residential development, without any retail component, which shall provide for a strong streetscape edge to Station Road, and with a nodal gateway building at the eastern end, adjoining the roundabout with the Lusk Ring Road. The alignment of Lough Common Lane between these blocks, and the details of its junction with Station Road, may be altered accordingly as part of such application.

Reason: It is considered that the proposed development fails to comply with the provisions of the current Development Plan for the area, in not providing the necessary urban design quality to the streetscape and an appropriate urban edge along Station Road, in not providing for a suitably designed and scaled nodal gateway building at the eastern approach to Lusk, and in proposing an excessive overall quantum of retail floorspace which would

contravene the provisions of the Development Plan and the retail strategy and would be contrary to the Ministerial Guidelines.

3. The proposed development shall be amended as follows: -
 - (a) Houses number 3 to 9 (inclusive) within Block 1, as indicated on drawing number 1004 P 03, submitted to the planning authority on the 4th day of November 2016, shall be omitted. The area thus released shall be designated as public open space addressing Scholar's Court and Scholar's Green. A playground shall be provided on this site, and the area shall be suitably fenced. Houses numbers 2 and 10 shall be revised so as to provide for dual frontage design addressing the public open space. The boundary treatment of these house plots shall consist of screen walls, two metres in height, from a point in line with the front building lines of each house to the equivalent point on the other house, and with dwarf walls forward of the building lines. All such walls shall be fully rendered or capped, or may be of brick and capped.
 - (b) The private open space of all apartments in Block 7 shall comply with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities.
 - (c) The fenestration to the rear elevation of house unit number 35 shall be revised to prevent direct overlooking of adjoining properties.
 - (d) The windows serving all bathrooms, en-suites, landings and walk-in wardrobes throughout the development, including such windows in the apartments, shall be permanently fitted and maintained with obscure glass.

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 amenity.

4. The development shall be phased in accordance with the following phasing scheme:
 - (i) The first phase, following demolition of existing structures, shall consist of the residential units in Blocks 2 and 3, and associated roads, footpaths, services and open spaces, and may include that part of Block 1 not omitted by condition 3 (a) of this permission, together with associated roads and public open spaces (including the playground required under condition 3 (a)).
 - (ii) The second phase shall consist either of Block 5A alone, or a combination of Block 5A, that part of Block 5B not excluded by condition 2 of this permission, and Block 4, and associated roads, footpaths, services and car parking areas.
 - (iii) A phasing scheme for the remainder of the development, including the non-residential units in Blocks 2 and 3 (if not constructed as part of the first phase), shall be agreed in writing with the planning authority prior to commencement of the overall development. No part of Block 4 shall be constructed until the residential units in Blocks 2 and 3 have been substantially completed and are available for occupation.

Reason: In order to ensure that the development hereby permitted is carried out in a sequential manner that respects the overall context and pattern of development in the area and conforms to the provisions of the Guidelines for Planning Authorities – Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Community and Local Government in May, 2009.

5. Lough Common Court shall be laid out and finished in a manner so as to facilitate direct connection to the adjoining lands to the east, either for pedestrians and cyclists or for general vehicular traffic. Details to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To facilitate permeability in the area in the interests of good urban design, and of the provisions of the Design Manual for Urban Roads and Streets (DMURS).

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings, apartment buildings, commercial buildings and crèche shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour in the case of the dwellings and apartments (including all mixed-use buildings in Blocks 2, 3 and 5) shall be blue-black or slate grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

7. Prior to the commencement of development, full details including maintenance arrangements of the 'Green wall' to the eastern gable elevation of Block 4 shall be submitted to, and agreed in writing with, the planning authority. The green wall shall be constructed using a horizontal panel system and shall be in situ prior to the coming into operation of any unit within Block 4.

Reason: In the interest of visual amenity.

8. 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 compounds including areas 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 Norseman's Walk, Joyce's Road, Scholar's Walk and Saddler's Place 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; and
- (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.

9. 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 within residential and commercial units 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.

10. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

- Existing trees and hedgerows specifying which are proposed for retention as features of the site landscaping,
- The measures to be put in place for the protection of these landscape features during the construction period,
- The species, variety, number, size and locations of all proposed trees and shrubs.
- Details of screen planting which shall not include *cupressocyparis x leylandii*.
- Details of roadside/street planting, which shall not include *Prunus species*.

- Hard landscaping works, specifying surfacing materials, furniture including play equipment and finished levels,
 - Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment, and
- (b) A timescale for implementation including details of phasing of landscaping works that complies with the overall phasing required under condition number 4 of this order.

All 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 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 the interests of residential and visual amenity

11. 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 crossing or bounding the site shall be relocated underground as part of the site development works, at the developer's expense.

Reason: In the interests 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, and along the proposed pedestrian street, 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, apartment or retail/commercial unit.

Reason: In the interests of amenity and public safety.

13. All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, except where bounding public open spaces or roads, when the walls shall be 2 metres in height. Post and timber fencing shall not be used for any rear garden boundaries.

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

14. The following shall be complied with:
- (a) Each shopfront shall be subject to a separate application for planning permission either singly or in group form.
 - (b) Adequate on-site storage space shall be provided for all retail units, restaurants, coffee shops and bars and no goods shall be stored or displayed on the areas fronting the units. Details to demonstrate compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

- (c) Uses such as dry cleaners, restaurants and take-aways shall be subject to separate planning applications where they are to be located in mixed-use blocks containing residential units. All ducting required for extraction of air from such units shall be located within the walls of the buildings and shall be vented at roof level.

Reason: In the interests of visual and residential amenity.

15. 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 houses.

16. Details of the proposed boundary treatment between Block 4 and Block 7 shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

17. No external security shutters shall be erected on any of the commercial or retail premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

18. Prior to commencement of development, details (including a map or drawing) delineating those areas of the proposed development which are to be taken in charge by the local authority upon completion, and those areas which are to be privately managed, shall be submitted to, and agreed in writing with, the planning authority. All areas consisting solely of individual housing units, and associated roads, and all of the Class 2 open spaces in Blocks 1, 2, 3, 5A and 6, shall be included in that part of the site that is to be taken in charge upon completion, and shall not be privately managed, but shall be maintained by the developer until taken in charge by the planning authority. For those parts of the development which are to be privately managed, including the common areas of the apartments and the retail and non-residential parts of the site, a management scheme providing adequate measures relating to the future maintenance of those areas and associated services shall be submitted to, and agreed in writing with, the planning authority.

Reason: In order to define those parts of the development which are to be taken in charge and those which are to be privately managed, and to provide for appropriate measures for future maintenance of the latter, in the interests of orderly development.

19. The areas of open space shown on the lodged plans, together with the additional open space required under condition 3(a) of this order, shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscaping scheme required under condition number 10 of this order. All of this work shall be completed before any of the dwellings within the relevant phase are made available for occupation. These open space areas 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, the open spaces 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.

20. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 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 the interests of public safety and residential amenity.

21. 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.

22. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs and access to the anchor store car park, shall comply with the detailed standards of the planning authority for such road works, and shall comply with the provisions of the Design Manual for Urban Roads and Streets.
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) Footpaths shall be a minimum of two metres in width throughout the proposed development.

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

23. All of the apartment car parking spaces provided within the development shall be individually marked and assigned to the residential units and/or reserved for visitors to the residential units as appropriate. None of these parking spaces shall be used for any purpose not directly related to the residential use of the apartments, shall not be made available for commercial use, and shall not be sold, leased, licensed or sub-let in connection with any other use or purpose.

Reason: In the interest of ensuring adequate parking provision is made for the residential development hereby permitted, and to prevent the use of such parking for any other purpose.

24. Full details of the operation of the crèche shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development on site. This shall include hours of operation, numbers of children and staff attending and all outdoor play areas. The facility shall comply with the minimum floor space requirements for children of different age categories as stipulated in the Childcare Facilities Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2001.

Reason: In order to ensure a satisfactory standard of childcare provision on site.

25. Proposals for a development estate name, house/apartment unit 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/unit 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 developments.

26. The Class 1 Public Open Space at Lusk North, which is under the ownership/control of the developer and which is attributable to the proposed development, as indicated on drawing number 1004 P 06, submitted to the planning authority on the 7th day of December 2015, shall be laid out and provided, to the written satisfaction of the planning authority, prior to the commencement of construction of Block 7, or the residential units within Block 6, whichever is the sooner.

Reason: To ensure the timely provision of this area of Class 1 public open space, in the interests of proper development and residential amenity.

27. 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 interests of sustainable waste management.

28. 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.

29. 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, watermains, drains, 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 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.

