

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

Fingal County Council

Planning Register Reference Number: F16A/0478

An Bord Pleanála Reference Number: PL 06F.248195

APPEAL by Margaret and Norbert Bannon and Colette and Peter Gillett of Elmcot, La Vista Avenue, Sutton, Dublin against the decision made on the 1st day of March, 2017 by Fingal County Council to grant subject to conditions a permission to Clondev Properties Limited care of Downey Planning of 1 Westland Square, Pearse Street, Dublin in accordance with plans and particulars lodged with the said Council:

PROPOSED DEVELOPMENT: Demolition of the existing two-storey dwelling known as Ouvane, Greenfield Road and the construction of three new detached dwellinghouses as follows:- (a) one three-storey five bedroom detached dwelling with associated roof lights, balcony, roof terrace end solar panels, (b) one two-storey four bedroom detached dwelling with associated roof lights, balcony and solar panels, (c) one two-storey three bedroom, detached dwelling with associated roof lights, balcony and solar panels, the development also consists of two new vehicular access onto Greenfield Road, two new pedestrian access onto the beach with new entrance gates, piers and boundary walls/railings, the relocation of the existing vehicle and pedestrian beach entrance to Ouvane, and all landscaping works, boundary treatments and associated site works, all at Ouvane, Greenfield Road, Sutton, 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 provisions of the Fingal County Development Plan 2017-2023, the location of the site within the Sutton Cross and Environs Architectural Conservation Area (ACA), the nature of the existing dwelling proposed for demolition, the nature and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would enhance the character of the ACA and would be acceptable in terms of traffic safety and convenience and in terms of flood risk. The proposed development, 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 for the proposed development, the Board considered that the overall approach to flood management was satisfactory and was adequately addressed in the engineering report dated October 2016 which confirmed that a flood risk appraisal for the site had been undertaken in accordance with the "The Planning System and Flood Risk Management Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in November, 2009. The Board noted that the mitigation proposed was considered acceptable to the planning authority and that the proposed development constituted an improvement in terms of flood management to that in place for the existing dwelling. In the context of a small scale redevelopment of an existing residential site, the Board was satisfied that flooding concerns had been addressed in a satisfactory manner.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out by the Inspector that the North Dublin Bay Special Area of Conservation (Site Code 000206) and North Bull Island Special Protection Area (Site Code 004006) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura impact statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for nearby European Sites in view of the sites' Conservation Objectives (North Dublin Bay Special Area of Conservation (Site Code 000206) and North Bull Island Special Protection Area (Site Code 004006). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the Appropriate Assessment, the Board considered, in particular, the likely direct and indirect impacts arising from the proposed development, specifically the potential for disturbance effects arising from the construction phase, the mitigation measures included as part of the current proposal and the conservation objectives for the Special Area of Conservation and Special Protection Area.

In this regard, the Board accepted and adopted the Appropriate Assessment carried out by the Inspector in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

The Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites' Conservation Objectives.

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 submitted to the planning authority on the 6th day of February 2017, 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. Each premises shall be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations, 2001, as amended.

Reason: To prevent unauthorised development

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellinghouses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. All bathroom/ensuite windows shall be fitted and permanently maintained with obscure glass. The use of film is not permitted.

Reason: in the interest of residential amenity

5. 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. In this respect,

- (a) all foul sewage and soiled water shall be discharged to the public foul sewer, and
- (b) only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

6. 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.

7. Details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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) details of a temporary solid hoarding to be erected within the site boundary to the rear of the site adjoining Sutton Strand. The hoarding shall be erected prior to the commencement of construction and maintained in place for the duration of the site works,
 - (b) details of measures to ensure there is no access/egress from or encroachment of Sutton Strand during the course of development,
 - (c) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
 - (d) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
 - (e) 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,
 - (f) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil, and
 - (g) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

9. 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.

10. 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.

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

Dated this day of 2017.