



An
Bord
Pleanála

Board Order PL 06F.248515

Planning and Development Acts 2000 to 2017

Planning Authority: Fingal County Council

Planning Register Reference Number: F16A/0464

Appeal by John and Anne Tarpey of “The Bungalow”, Chapel Road, Kilsealy, Malahide, County Dublin and by Crekav Trading GP Limited care of Marlet Property Group Limited of Floor 7, College House, Townsend Street, Dublin and by others against the decision made on the 20th day of April, 2017 by Fingal County Council to grant subject to conditions a permission to the said Crekav Trading GP Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: 10 year permission for development comprising demolition of a two-storey twentieth century extension (52 square metres) to the rear of Kinsaley House, two-storey apartment building (412 square metres) and related agricultural buildings (two number sheds, two number stable blocks and a hay shed totaling 1,038.50 square metres), and development comprising [1] refurbishment of Kinsaley House consisting of fabric repairs, basement works and provision of a first floor en-suite bathroom; and provision of a two-storey extension to the rear of Kinsaley House consisting of kitchen, dining and living space, Part M accessible WC and entrance lobby to ground floor (65.4 square metres) and main bathroom to first floor (12.4 metres), [2] construction of 101 number dwellings consisting of eight number two-storey two bedroom houses, 62 number two-storey three bedroom houses, 30 number two-storey four bedroom houses, and the renovation of the

existing retained stone shed consisting of fabric repairs, addition of a first floor (total area 87square metres), new openings within the existing east and west elevations for provision of windows and access door and new slate roof incorporating conservation type roof lights for use as a two-bedroom residential dwelling, and associated in-curtilage parking spaces to all dwellings, [3] vehicular access off Chapel Road, [4] a 180 square metres childcare facility with an outdoor play area and associated staff parking and drop off/pick up spaces, [5] 1.6 hectares public open space, and [6] ancillary site development works including internal roads, landscape works, boundary treatments, children's play facility, foul surface water (including SuDS treatment) and water supply works, undergrounding of the existing 10KV overhead power line and two new on-site pylons, provision of one number Electricity Supply Board substation and a temporary construction access route off Chapel Road, all on a site of 6.5 hectares (16.06 acres) at Kinsaley House (a Protected Structure-RPS No. 464), Chapel Road, Kinsaley, County Dublin. The proposed development was revised by further public notices received by the planning authority on the 27th day of March, 2017.

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 'RV' zoning of the site and the provisions of the Fingal Development Plan 2017–2023, to the pattern of existing development in the area, the nature, scale and design of the proposed development, the Urban Design Manual - A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009 and 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, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience, would not be prejudicial to public health and would not conflict with the objectives of the Fingal Development Plan 2017-2023. 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, the Board was satisfied that, subject to compliance with the conditions set out below, the proposed development represented a natural extension to the village core and was acceptable in principle and furthermore, would not be prejudicial to public health, having regard to the phased approach to housing delivery linked to the provision of sufficient capacity in the local wastewater infrastructure.

Appropriate Assessment Screening Stage 1.

The Board noted the Appropriate Assessment Screening Report submitted by the applicant and the Appropriate Assessment Screening determination carried out by the Inspector. The Board concurred with the Inspector's determination, and adopted his conclusions and recommendations in this regard. The Board was, therefore, satisfied, having regard to the nature, location and scale of the subject development, and in the light of the mitigation measures set out in the applicant's Screening Report, which would constitute normal construction practice, that the construction of the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on Malahide Estuary Special Area of Conservation (site code: 000205) and Malahide Estuary Special Protection Area (site code: 004025), Ireland's Eye Special Area of Conservation (site code: 002193), Ireland's Eye Special Protection Area (site code: 004117), North Dublin Bay Special Area of Conservation (site code: 000206), North Bull Island Special Protection Area (site code: 004006), Rockabill to Dalkey Island Special Area of Conservation (site code: 003000), South Dublin Bay and River Tolka Estuary Special Protection Area (site code: 004024), South Dublin Bay Special Area of Conservation (site code: 000210); Rogerstown Estuary Special Area of Conservation (site code: 000208) and Rogerstown Estuary Special Protection Area (site code: 004015); Howth Head Special Area of Conservation (site code: 000202) and Howth Head Coast Special Protection Area (site code: 004113), and Lambay Island Special Area of Conservation (site code: 000204) and Lambay Island Special Protection Area (site code: 004069) in light of the sites' Conservation Objectives and that a Stage 2 Appropriate Assessment is not, therefore, required.

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 the 14th day of March, 2017 and the 27th day of March, 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. This permission hereby permits 100 residential units and a crèche.

Reason: In the interest of clarity.

3. This permission is for a period of 10 years from the date of this order.

Reason: In the interest of clarity.

4. A footpath and cycle path spur shall be created linking the north-eastern most site roadside edge (adjacent to the pumping station) to the proposed peripheral cycleway/footpath.

Reason: In the interest of pedestrian and cyclist safety and amenity and in the interest of permeability and connectivity.

5. No dwelling shall be occupied on foot of this permission until such time as the signalisation of the junction of the Malahide Road (R107) and Chapel Lane is completed and operational to the satisfaction of the planning authority.

Reason: To ensure that there is an adequate level of road infrastructure to support the proposed development.

6. The development shall be carried out on a phased basis based on the availability of public water/waste water services.
 - (a) The first phase shall consist of not more than 50 dwelling units including the crèche, Kinsaley House and the stone barn, together with their associated site development works. Prior to commencement of development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.
 - (b) Work on any subsequent phases shall not commence without the written agreement of the planning authority to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings and to ensure the timely conversion of Kinsaley House and Barn, a Protected Structure.

7. Prior to commencement of development, a schedule of works to Kinsaley house shall be submitted to, and agreed in writing with, the planning authority. The schedule of work shall contain the following:-
 - (a) any interventions required to the historic fabric of Kinsaley House in particular, those noted on drawing number pA[00]-02, including the blocking up of fireplaces and also any brick, stone roof or railing repairs,

- (b) a window survey for the purpose of identifying windows for repair and refurbishment,
- (c) assessment and outlining material which can be salvaged from the proposed demolition (such as brick, stone or slate) and re-used within the scheme,
- (d) a demolition plan indicating the method of retaining and salvaging material,
- (e) details of proper storage of the materials shall be included.

The agreed schedule of works shall be undertaken in full and certified upon completion by the conservation consultant as being in accordance with good conservation practise.

Reason: In order to ensure development to Kinsaley House, a Protected Structure, follows best practice in terms of repair and renovation.

8. All alterations and works proposed to Kinsaley House and the Stone Barn and any other historic built elements shall be carried out under the professional supervision on site of an RIAI Accredited Conservation Architect Grade II or III (or equivalent). On completion of the works, the Conservation Architect shall submit a report to the planning authority for the Protected Structure file demonstrating that works have been properly executed in accordance with best conservation practice.

Reason: To ensure that the integrity of the protected structure and ancillary structures is maintained and that the proposed repair works are carried out in accordance with good conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric.

9. (1) Not more than 75 residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed.
- (2) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, details of the set-down area for the proposed childcare facility.

Reason: To ensure that childcare facilities are provided in association with residential units and in the interest of residential amenity and traffic safety.

10. Detailed measures in relation to the protection of bats shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These measures shall be implemented as part of the development.

Reason: In the interest of wildlife protection.

11. The operating hours of the crèche shall be restricted to between 0730 hours Monday to Friday unless otherwise agreed in writing with the planning authority. A maximum of 30 children shall be accommodated in this facility at any one time.

Reason: In the interest of clarity and residential amenity.

12. A two metre block wall, rendered on both sides and capped, shall be provided on the western site boundary with Churchview. The north-western site boundary with Churchview and Woodview shall be a two-metre high concrete post and concrete panel fence.

Reason: In the interest of residential amenity and to protect existing trees.

13. Prior to commencement of development, revised drawings showing compliance with the following requirements shall be submitted to, and agreed in writing with, the planning authority:
- (a) the dwellings on plots numbers 4, 12 and 20 shall be hipped pitches roofs,
 - (b) the dwellings on plots numbers 16 to 19 shall be relocated northwards by one metre,
 - (c) the first floor windows to the southern elevations of houses on plots numbers 07 (Type G) and 08 (Type D) shall be permanently fitted with obscured glazing, use of film is not acceptable, and
 - (d) the first floor northern elevation to unit D1 on plot number 50 shall be recessed southwards by two metres. Consequent amendments to the roof profile shall also be undertaken.

Reason: In the interest of residential amenity.

14. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the heritage and planning division of the Department of Culture, Heritage and the Gaeltacht with regard to any necessary mitigation action (for example, preservation in situ, or excavation) and should facilitate the recording of any material found. The planning authority and the heritage and planning division of the Department of Culture, Heritage and the Gaeltacht shall be furnished with a report, within four weeks of the completion of ground works, describing the results of the monitoring.

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 site and to secure the preservation and protection of any remains that may exist within the site.

15. The proposed dwellings shall be provided with noise insulation to an appropriate standard, having regard to the location of the site within the Outer Airport Noise Zone, and in accordance with the measures set out in the Noise Impact Assessment submitted with the application.

Reason: In the interest of residential amenity.

16. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the submitted landscaping details and the detailed requirements of the planning authority. 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, 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.

17. Proposals for a 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 street signs and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the written agreement of the planning authority to the proposed name(s).

Reason: In the interest of urban legibility.

18. 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.

Reason: In the interest of visual amenity.

19. Water supply and drainage arrangements, including the attenuation and disposal of surface water and provision for 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.

20. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

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

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. All existing over ground cables shall be relocated underground as part of the site development works.

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 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.

24. 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.

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

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 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.

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 as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of costs to be incurred by the planning authority in connection with the signalisation and upgrade of the junction of the Malahide Road (R017) and Chapel Road. 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.

