



An  
Bord  
Pleanála

**Board Order**

**PL 06F.249130**

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## **Planning and Development Acts 2000 to 2017**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F16A/0541**

**Appeal** by Justice T.C. and Patricia Smyth care of Auveen Byrne and Associates of Lioscarran House, 32 Dale Road, Kilmacud, Stillorgan, County Dublin and by others against the decision made on the 2<sup>nd</sup> day of August, 2017 by Fingal County Council to grant subject to conditions a permission to Greg Gallagher care of Downey Planning of 1 Westland Square, Pearse Street, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a two to three storey over basement residential apartment block comprising 22 number apartment units (18 number two bed and four number one bed units), with associated car parking, bin store and plant room at basement level. Permission is also sought for the relocation of existing vehicular entrance from Station Road and a new access road, bicycle parking, associated boundary treatments, landscaping, open space and all associated site and engineering works necessary to facilitate the development on lands adjacent to and to the rear of number 17 Station Road (Protected Structure Reference 920), Sutton, Dublin, as amended by the further public notice received by the planning authority on the 13<sup>th</sup> day of July, 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**

The proposed apartment development is located in an area zoned to provide for residential development and protect and improve residential amenity in the Fingal County Development Plan 2017 to 2023. Having regard to the modest scale of the proposed development, the pattern of development in the area and subject to compliance with the conditions set out below, it is considered that the proposed development would not seriously injure the residential amenity of property in the vicinity, would not detract from the character and setting of the Protected Structure and the Architectural Conservation Area and would not give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered the Appropriate Assessment Screening, the Natura impact statement, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Baldoyle Bay Special Area of Conservation (Site Code 000199), the Baldoyle Bay Special Protection Area (Site Code 004016), the North Dublin Bay Special Area of Conservation (Site Code 000206) or the North Bull Island Special Protection Area (Site Code 004006) in view of the sites' conservation objectives. 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 following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

## 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 lodged with the planning authority on the 7th day of July 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. 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.

3. The access to Station Road shall be as set out in "Option A" drawing number AI\_001 submitted to the planning authority 7<sup>th</sup> day of July, 2017. Prior to the commencement of development, a revised boundary plan showing the following shall be submitted to, and agreed in writing with the planning authority:
  - (a) A crenelated boundary wall to the same height and form as the existing along with any associated piers connecting with the front wall and extending from Station Road to turn the corners of the shared accessway, down the length of the driveway on both sides as far as the vehicular openings to serve number 17 Station Road and the dwelling proposed under An Bord Pleanála appeal reference PL06F.249121.

**Reason:** In the interest of traffic safety and visual amenity.

4. Prior to commencement of development, the developer shall submit plans and particulars for the written agreement of the planning authority providing for the following:
  - (a) The living room windows of apartments numbers 2 and 10 shall be clerestory windows.
  - (b) The apartment block shall be moved one metre south.

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

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

6. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

7. (a) Prior to commencement of development, all trees which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

8. The landscaping scheme shown on drawing numbers PP 141-02-OP.A and PP 141-03-OP.B as submitted to the planning authority on the 7<sup>th</sup> day of July 2017, shall be carried out prior to occupation of any of the units permitted by this grant of permission.

In addition to the proposals in the submitted scheme, the following shall be carried out:

- (a) A planted buffer strip shall be provided along the southern boundary with numbers 17 and 18 Station Road. Details of this strip including width, depth of soil and appropriate species shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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 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.

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

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

10. 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.

11. Public lighting shall be provided in accordance with a scheme 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 apartment.

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

12. Proposals for a naming and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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 interest of urban legibility.

13. 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.



14. 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 the provision of public open space to be provided by the planning authority in compensation for any deficit in public open space provision within the proposed development. 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 the Board for determination. The contribution shall be paid prior to the commencement of the 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.

15. 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.

