



An  
Bord  
Pleanála

**Board Order**  
**PL 06F.249206**

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## **Planning and Development Acts 2000 to 2018**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F17A/0373**

**Appeal** by Alain M.R Labat-Rochecouste and Andrew Rochecouste care of BPS Planning Consultants of 23 Saval Park Road, Dalkey, County Dublin and by others against the decision made on the 23<sup>rd</sup> day of August, 2017 by Fingal County Council to grant subject to conditions a permission to Tilberry 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:** A residential development of 151 number residential units and one number crèche/childcare facility to include: 41 number two and a half storey, three bedroom terrace dwellings; two number two and a half storey, three bedroom semi-detached dwellings; nine number two storey, two bedroom detached dwellings; nine number two storey, three bedroom detached dwellings; 90 number two bedroom duplex units arranged in a split level design over three storeys and one number two storey crèche/childcare facility all with associated car parking. Planning permission is also sought for one number new link road with new pedestrian and vehicular entrance from existing New Road connecting to 'The Links' (existing residential estate to the north) along with two number additional vehicular and pedestrian entrances to the proposed development from New Road and associated upgrade works. Permission is also sought for landscaping including private, public and communal open space, one number playground and boundary treatments.

Planning permission is also sought for a temporary foul pumping station to serve the development. This temporary pumping station will be decommissioned and removed following completion of the permanent pumping station on the new distributor Road/New Road (not part of this application) to which the proposed development will then be connected and all associated site and engineering works necessary to facilitate the development, all on lands at New Road, Ballisk, Donabate, County Dublin, as amended by the revised public notice received by An Bord Pleanála on the 12<sup>th</sup> day of June, 2018 which comprise the following: revised plans and particulars for the development comprising 48 number additional residential units and an increase in height of duplex blocks from three-storey to four-storey.

## **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 Board, in coming to its decision had regard to:

- the zoning provisions and objectives of the Fingal County Development Plan 2017-2023,
- the Donabate Local Area Plan 2016,

- the Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in 2009,
- the nature, scale, density and layout of the site it is considered that the development as amended and submitted in response to the section 137 notice in March 2018,
- the submission of the parties, and
- the Inspectors report and addendum report,

the Board considered that, subject to compliance with the conditions set out below, the proposed development would represent an acceptable density of residential development for the site in close proximity to established rail transport services and social and community services, and would be in compliance with the guidance contained in the Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Guidelines for Planning Authorities, the accompanying Best Practice Urban Design Manual (Department of the Environment, Community and Local Government 2009) and in accordance with the Design Manual for Urban Roads and Streets (Department of the Environment, Community and Local Government and Department of Transport, Tourism and Sport 2013). Furthermore, it is considered that the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety. 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 permit the original scheme as submitted with amendments to house types, the Board considered that the response to the section 137 notice represented the optimal layout in terms of density and design and, therefore, would 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 response to the section 137 notice received by An Bord Pleanála on the 22<sup>nd</sup> day of March 2018, 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:
  - (a) Units 53 and 54 shall be omitted and subsequently units 17 – 20 and the portion of access road serving them shall be relocated eastward by two metres.

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 visual and residential amenity and to ensure a high quality and legible urban environment.

3. The 12 number car parking spaces to the north of unit numbers 96/97 and the 12 number car parking spaces to the north of unit numbers 164/165 shall be omitted. The resultant areas shall be reorganised as public open space and landscaped accordingly. Revised landscaping plans incorporating the changes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development on site.

**Reason:** To ensure a satisfactory parking and landscaping layout in the interests of pedestrian and traffic safety and residential and visual amenity.

4. Sheltered bicycle parking shall be provided for duplex units at a rate of one number space per unit plus one visitor space per five number units.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development.

5. The proposed development, shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services, and the provision of the link street, for the benefit of the occupants of the proposed units.

6. 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 -

- (a) Employ a suitably-qualified archaeologist who shall carry out pre-development testing of the site at all locations where ground disturbance is to take place.

- (b) Should archaeological material be found during the course of testing or works, 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 Arts, Heritage and the Gealtacht with regard to any necessary mitigation action (e.g. preservation in situ, or excavation) and should facilitate the recording of any material found.
- (c) The planning authority and the Heritage and Planning Division of the Department of Arts, Heritage and the Gealtacht shall be furnished with a report, within four weeks of the completion of pre-testing, describing the results of the testing. No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted to the planning authority and permission to proceed has been received from the planning authority.

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.

- 7. Not more than 75 number 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.

**Reason:** To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

8. Full details of all external treatments to the proposed dwellings and duplex units, to include materials, colours and textures of all the external 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.

9. Details of boundary treatments, including details of boundary treatments to ground level terraces and balconies, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water and ground water and provision for existing foul sewer connections within the site, shall comply with the detailed requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

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

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

12. (a) 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.

- (b) The landscaping scheme shall include details of play facilities to be provided within the site.
- (c) 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.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

- 13. 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 planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility.

- 14. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of some or all of the development being taken in charge. 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 development.



15. 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 interest of visual and residential amenity.

16. 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.

17. 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 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:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

18. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

19. 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 interests of public safety and residential amenity.

20. A detailed Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic and parking for construction workers during the construction phase, and arrangements for delivery of abnormal loads to the site.

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

21. 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.

22. 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.

23. 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 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.

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

**Dated this          day of                                  2019**