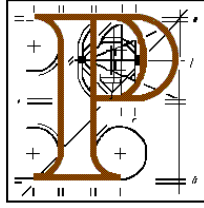


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

**Fingal County Council**

**Planning Register Reference Number: F17A/0483**

An Bord Pleanála Reference Number: ABP-300044-17

**Appeal** by Eugene McKenna on behalf of Tobersool Residents of Tobersool Lane, Balcaddan, County Dublin against the decision made on the 4<sup>th</sup> day of October, 2017 by Fingal County Council in relation to an application by Calvaire Holdings Limited care of Downey Planning of 1 Westland Square, Pearse Street, Dublin for outline permission for construction of four number four bedroom, two storey, detached dwellings with associated car parking and on-site waste wastewater treatment systems, with permission for all associated ancillary site works necessary to facilitate the development including a new vehicular entrance and internal road from Tobersool Lane and landscaping and boundary treatment on lands at Drummans, Tobersool Lane, Balcadden, County Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions an outline permission for four number detached dwellings with associated car parking and on-site wastewater treatment systems and to grant permission for all associated ancillary site works necessary to facilitate the development including a new vehicular entrance and internal road from Tobersool Lane and landscaping and boundary treatment).

## **Decision**

**GRANT** outline permission for four number four bedroom, two storey, detached dwellings with associated car parking and on-site wastewater treatment systems in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions marked (1) set out below.

**GRANT** permission for all associated ancillary site works necessary to facilitate the development including a new vehicular entrance and internal road from Tobersool Lane and landscaping and boundary treatment based on the reasons and considerations marked (2) under and subject to the conditions marked (2) 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 (1)**

Having regard to the zoning Objective “Rural Cluster” for Tobersool as set out in the Fingal County Development Plan 2017-2023, and to the pattern of residential development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the relevant provisions of the Fingal County Development Plan 2017-2023, would not seriously injure the amenities of the Tobersool ‘Rural Cluster’ or of property in the vicinity, would not be prejudicial to public and environmental health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions (1)

1. This 'outline' permission relates solely to the principle of the development on this site, and it shall not be construed as giving consent to the following matters:
  - (a) The site layout of each plot of the development.
  - (b) The design and construction of the four number dwellinghouses to be developed.

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

2. Permission consequent to this outline permission for each of the four dwellings shall only be granted on single plots to separate applicants who comply with the relevant County 'Rural Settlement Strategy' of the Fingal County Development Plan 2017-2023, as it applies to 'Rural Clusters'.

**Reason:** In the interest of the proper planning and sustainable development of the area.

3.
  - (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
  - (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

4. Each of the proposed dwellinghouses, shall not be occupied until such time as the new vehicular entrance off Tobersool Lane, and inclusive of front boundary treatment and internal road from Tobersool Lane, and landscaping and boundary treatment is completed to the satisfaction of the planning authority.

**Reason:** In the interest of orderly development.

5. This permission hereby permits outline permission for four number detached houses with associated car parking and on-site wastewater treatment systems. Plans and particulars shall be lodged with, and approved by the planning authority, as a permission consequent of this grant of outline planning permission. These shall include:
  - (a) details indicating the layout of each dwelling house, driveways and drainage system;
  - (b) the dwelling houses shall be detached, shall be single storey, dormer or two-storey in nature, have a maximum ridge height of eight metres, a maximum floor area of 180 square metres, and shall be positioned so that the front walls of the dwellings are orientated eastward;
  - (c) each dwelling house shall vary relative to one another in terms of ridge height and elevational design;
  - (d) the first floor windows on the side/south elevations of Unit C and D shall comprise obscure glazing;
  - (e) the roofs of the dwelling houses shall be finished with natural slate of blue/black colour, external walls shall comprise neutral coloured render. Should stone be proposed, it shall comprise natural stone;

- (f) parking for two number cars shall be provided within the curtilage of each dwelling with an adequate turning area; and
- (g) a boundary treatment and a landscaping plan for the site, to include retention of existing mature trees and boundary planting, where relevant.

**Reason:** In the interest of clarity and to define the subject matter for decision at the permission consequent of outline planning permission stage.

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:-
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report containing the results of the assessment shall be submitted to the planning authority with any application for permission consequent on this grant of outline permission. Details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to the commencement of construction work, shall be determined at permission consequent stage.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site

7. At the permission consequent stage, water supply and wastewater 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.

8. At the permission consequent stage, physical infrastructure and servicing arrangements to enable the proposed development, including the new vehicular entrances and accessways, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health, traffic safety and orderly development.

9. All service cables associated with the proposed development (including electrical, television, telephone and broadband) shall be run underground within the site.

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

10. That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

11. 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.

12. At the permission consequent stage, 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

## **Reasons and Considerations (2)**

Having regard to the zoning Objective “Rural Cluster” for Tobersool as set out in the Fingal County Development Plan 2017-2023, and to the pattern of residential development in the area, it is considered that, subject to compliance with the Conditions set out below, the proposed development would be in accordance with the relevant provisions of the Fingal County Development Plan 2017-2023, would not seriously injure the amenities of the Tobersool ‘Rural Cluster’ or of property in the vicinity, would not be prejudicial to public and environmental health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions (2)

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.



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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

3. Wastewater drainage arrangements, specifically 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.

4. Physical infrastructure and servicing arrangements to enable the proposed development, specifically in relation to access (including the new vehicular entrance, front boundary treatment and setback, road widening, internal road, costs), shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of traffic safety and orderly development, and in order to comply with requirements in relation to access.

5. The eastern boundary of the site (that is, along the landscaped area) shall comprise a post and rail timber fence (0.9 metre in height), supplemented with native planting.

**Reason:** To protect the amenity of the area.

6. All landscaping/planting shall be carried out and completed during the first planting season following commencement of development. The site boundaries shall be as indicated on drawing number PL100 submitted to the planning authority on the 11<sup>th</sup> day of August, 2017. The boundaries between the sides of the dwellings shall comprise a timber post and rail fence (one metre in height) with native hedgerow.

**Reason:** To facilitate the integration of the proposal within a reasonable time period and in the interest of proper planning and sustainable development.

7. That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

8. 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.

---

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

**Dated this          day of                                  2018**