

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

## Fingal County Council

**Planning Register Reference Number: F17A/0357**

An Bord Pleanála Reference Number: ABP-300045-17

**Appeal** by Conor Moran of 2 The Orchard, Oldtown, County Dublin and by Patricia Brennan of 1 The Orchard, Oldtown, County Dublin against the decision made on the 4<sup>th</sup> day of October, 2017 by Fingal County Council to grant subject to conditions a permission to Sean McCusker care of Gráinne Mallon of 12 Belscadden Road, Howth, County Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** The construction of 14 number dwellings comprising six number five bedroom dormer dwellings with integrated garage, four number four bedroom two storey dwellings and four number three bedroom bungalows and associated works on land west of 1-10 The Orchard, Oldtown, County 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 planning history of the site, to the provisions of the Fingal Development Plan 2017-2023 and the Oldtown Local Area Plan 2012-2022 and its associated Village Design Framework Plan, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic impact and would, therefore, 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 application, as amended by the further plans and particulars submitted on the 8<sup>th</sup> day of September 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. 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. Roof colour shall be blue-black, black or dark grey in colour only.

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

3. No construction traffic shall use The Orchard estate road. Access for construction traffic shall be via a temporary access as indicated on MTW Consultants Limited drawing number MV-002, submitted to the planning authority on the 8<sup>th</sup> day of September, 2017. This temporary access road and access onto the public road shall be decommissioned within one month of the completion of the development hereby permitted and all elements of the road shall be removed and the area levelled and reseeded. The gap in the hedgerow along the public road shall be reinstated with native species.

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

4. 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) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - (b) location of areas for construction site offices and staff facilities;
  - (c) details of site security fencing and hoardings along the temporary construction access road;
  - (d) details of appropriate mitigation measures for noise, dust and vibration, particularly along the temporary construction access road, and monitoring of such levels;
  - (e) details of on-site car parking facilities for site workers during the course of construction;
  - (f) measures to obviate queuing of construction traffic on the adjoining road network;
  - (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
  - (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
  - (i) 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;
  - (j) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and

- (k) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

5. 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.

6. 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.

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

7. 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.

8. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, 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.

9. 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.

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

10. (a) The boundary treatment between the rear gardens of house numbers 1, 2, 8 and 9 and the adjacent public open space shall comprise a rubble stone faced wall, 1.8 metres in height and capped.
- (b) A timber post and rail fence, 1 metre in height, shall be provided to the inner side of all existing and proposed hedgerows within the site.
- (c) With the exception of the boundaries specified in conditions 10(a) and 10(b), all rear gardens shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides.
- (d) Front boundary walls shall be 0.9 metre in height and shall be suitably capped and finished in a material that matches the external finish of the dwellings.

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

11. Proposals for an estate/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 estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. 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 and to ensure the use of locally appropriate placenames for new residential areas.

12. 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 detailed requirements of the planning authority and subject to compliance with condition 13 (a) below. 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. The landscaping scheme shown on drawing number PP163, as submitted to the planning authority on the 8<sup>th</sup> day of September, 2017 shall be carried out within the first planting season following substantial completion of external construction works.

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

- (a) A number of existing apple trees within the site shall be incorporated into the private amenity space of the houses hereby permitted and the areas of public open space. Details of the number and location of apple trees to be retained shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The mitigation measures and construction methods set out in the Arboricultural Report and associated Tree Protection Plan drawing number 170824-P-12 submitted to the planning authority on the 8<sup>th</sup> day of September 2017 shall be implemented in full.

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 or until the development is taken in charge by the local authority, whichever is the sooner, 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 interest of residential and visual amenity.

14. The ecological recommendations set out in Appendix 1 of the 'Habitats Directive Screening and Ecological Assessment' submitted to the planning authority on the 8<sup>th</sup> day of September, 2017 shall be complied with.

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

15. 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.

16. 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.

17. 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            2018.**