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**Planning and Development Acts 2000 to 2017**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F17A/0345**

**Appeal** by Robert Sunderland of Navarre, Swords Road, Malahide, County Dublin and by others against the decision made on the 23<sup>rd</sup> day of November, 2017 by Fingal County Council to grant subject to conditions a permission to Keelmont Limited care of Hughes Planning and Development Consultants of The Mash House, Distillery Road, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Permission for (i) the demolition of two number detached dwellings known as 'Dun na Ri' and 'Arundel' and ancillary garages/outbuildings; (ii) construction of nine number five-bedroom two-storey detached dwellings with attic level accommodation and two number dormer windows (six number dwellings will face Swords Road to the south-west and three number dwellings will face Millview Road to the north-west). Each dwelling will have two number on-curtilage car parking spaces and a private rear garden. The development will include new vehicular entrances, landscaping, boundary treatments, SUDS drainage, and all other ancillary site development works necessary to facilitate the development, all on lands at 'Dun na Ri' and 'Arundel', Swords Road, Malahide, 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 residential zoning of the site, the infill nature of the development and the pattern of existing development in the area, 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 and would not conflict with the objectives of the current Development Plan for the area. The proposed development 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 to the planning authority on the 13<sup>th</sup> day of October, 2017, except as may otherwise be required in order to comply with the following conditions. For the purpose of clarity, the Board is approving Option 1, as detailed on Site Plan Option 1 (Drawing Number 1704 00 B dated 21<sup>st</sup> September, 2017) subject to compliance 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) Omit the dormer window on the rear (northern) roof slope of House Type B2 and replace it with rooflights.
  - (b) All bathroom/en-suite windows, and the windows shown to be opaque glazing on the plans submitted as further information on the 13<sup>th</sup> day of October, 2017, shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.

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.

3. Details of all boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The front boundary wall shall not exceed 0.9 metres in height.

**Reason:** In the interest of traffic safety.

4. Proposals for a house numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. 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.

6. 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.

7. The developer shall adhere to the following transportation requirements:
- (a) the existing footpath along the Swords Road and Millview Road adjacent to the southern and western site boundaries shall be upgraded to provide for a 1.8-metre wide footpath;
  - (b) the front boundary walls to the dwellings fronting the Swords Road shall be sited a minimum distance of 14 metres from the edge of the kerbing on the southern side of the Swords Road (R106) as proposed on Drawing Number P283-101 submitted as further information;
  - (c) the area abutting the front boundary walls to the dwellings fronting the Swords Road, shown hatched red on Drawing Number P283-101 as a “proposed future cycle lane and footpath” shall be reserved for such use;
  - (d) the proposed pedestrian footpath over the proposed driveways shall be designed to comply with Section 4.3.1 of the “Urban Design Manual for Urban Roads and Streets” issued by the Department of Transport, Tourism and Sport in April, 2013;
  - (e) No objects, structures (including boundary walls and crenulations) or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900 millimetres which would interfere or obstruct (or could obstruct over time) the required visibility envelopes, and

- (f) the footpath and kerb shall be dishd at the developer's expense to the satisfaction of the planning authority.

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

8. 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.

9. The developer shall comply with the following arboricultural and landscaping requirements:

Prior to the commencement of development, the developer shall submit a revised landscape plan providing the following:

- (a) Details of the street tree planting of species *Acer Campestre* 'Elizebeth' or similar with the street trees relocated centrally within the proposed grass margin;
- (b) Full details of the tree pit, root deflector and root barrier to be installed;
- (c) Location of services in the vicinity of the tree pits including the relocation of the proposed lamp standard on the Swords Road outside the proposed grassed area;

- (d) A revised grass verge to Millview Road to provide a regular, linear grass verge. This shall include the relocation of the proposed 900-millimetre-high western wall to the front garden of House Type C to align with the proposed two-metre-high wall serving the rear garden fronting Millview Road;
- (e) Tree pits shall have a minimum rooting volume of 16 cubic metres, and
- (f) All works shall follow proper arboricultural techniques conforming to BS3998: 2010 Tree Works – Recommendations.

**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 at the developer's expense.

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

11. Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0800 and 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. 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, noise management measures and off-site disposal of construction/demolition waste.

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

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.



14. 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.

15. 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.

16. The developer shall pay to the planning authority a financial contribution in lieu of the public open space shortfall that arises based on the standards set out in Objectives DMS57 and Objective DMS57B of the Development Plan and 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.

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.

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

**Dated this            day of            2018.**