



Planning and Development Acts 2000 to 2017

Planning Authority: Fingal County Council

Planning Register Reference Number: F17A/0589

Appeal by Aljaco Limited care of Downey Planning of 1 Westland Square, Pearse Street, Dublin against the decision made on the 20th day of November, 2017 by Fingal County Council to refuse permission for development comprising the construction of 20 number residential dwellings as follows: two number semi-detached, two storey, four bed dwellings, 16 number semi-detached/terraced, two storey, three bed dwellings and two number detached, two storey, three bed dwellings all with associated car parking, connection to and utilisation of access from Portrane Road granted under planning register reference number F15A/0456, landscaping, boundary treatments, engineering proposals (including one number foul water pumping station if required) and all associated site works necessary to facilitate the development, all on lands adjacent the residential development of The Paddocks and south of Somerton, Portrane Road, Ballisk Common, Donabate, County Dublin in accordance with the plans and particulars lodged with the said Council.

Decision

GRANT permission for units numbers 1 - 6 all with associated car parking, connection to and utilisation of access from Portrane Road granted under planning register reference number F15A/0456, landscaping, boundary treatments and all associated site works in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for units 7-20 based on the reasons and considerations marked (2) under.

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 nature and layout of the proposed development, to the existing pattern of development in the area and to the provisions of the Fingal Development Plan 2017-2023, it is considered that, subject to compliance with the conditions set out below, the provision of units numbers 1 - 6 of the proposed development would be acceptable in terms of the land use zoning objectives of Fingal Development Plan 2017-2023 for the eastern portion of the site. The proposed development would, therefore, be in accordance with to the proper planning and sustainable development of the area

In deciding not to accept the Inspector's recommendation to refuse the development in its entirety, the Board was satisfied that units numbers 1 - 6 were in accordance with the zoning objectives for the site and could be delivered 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, 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. This permission hereby permits units numbers 1 - 6 only and omits units numbers 7 - 20.

Reason: In the interest of clarity.

3. (a) Drainage Option 2 No Pumping Station (drawing number 2100W-PL-002) as it relates to the six number units only is hereby permitted.

(b) Revised drawings indicating the omission of units numbers 7 - 20 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of works on site.

Reason: In the interest of clarity.

4. Units numbers 7 - 9 shall be redesigned and reoriented through 90 degrees to an easterly outlook to address the street to the east. The revised design shall be the subject of a separate application of planning permission.

Reason: In the interest of orderly development.

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. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

7. 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.

8. 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. 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 interest of residential and visual amenity.

9. 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.

10. 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. S48 unspecified.

Reasons and Considerations (2)

Having regard to the nature and layout of the proposed development, to the existing pattern of development in the area and to the provisions of the Fingal Development Plan 2017-2023, it is considered that the proposed development, by reason of locating 11 number houses on lands zoned for 'Community Infrastructure', where residential development is not permitted, would materially contravene the land use zoning objectives of Fingal Development Plan 2017-2023 and would set an undesirable precedent for similar developments. It is further considered that units numbers 7 - 9 whilst acceptable in principle require redesign (see condition number 3 above). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

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

Dated this day of 2018