



Planning and Development Acts 2000 to 2018

Planning Authority: Fingal County Council

Planning Register Reference Number: F17A/0556

Appeal by Mark Beggs care of Gavin Buggy Architects of 8 Beech Park Avenue, Foxrock, Dublin against the decision made on the 12th day of March, 2018 by Fingal County Council to grant subject to conditions a permission to Mybalroan Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Development consisting of the demolition of the existing two-storey dwelling house and associated single-storey outbuildings (circa 260 square metres) and the construction of an infill residential scheme comprising 30 number terraced and semi-detached, three-storey dwellings (four number three-bedroom dwellings, six number four-bedroom dwellings and 20 number five-bedroom dwellings) ranging in size from 166 square metres to 189 square metres, each with a terrace to the rear at first or second floor level and each with two number car parking spaces. Access to the site will be via the existing entrance off the Drumnigh Road (R124), which will be widened and realigned to facilitate the proposed development. The development will include communal open space (circa 1,480 square metres),

piped infrastructure and ducting, changes in level, internal roads and pathways, site landscaping, boundary treatments and all associated site development and excavation works above and below ground, all on a site of circa 1.48 hectares at “Innishannon”, Drumnigh Road, Portmarnock, 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 provisions of the Fingal County Development Plan 2017-2023, the zoning objectives for the area, the existing established residential use, the pattern of existing and permitted development in the vicinity and, having regard to the information submitted as part of the planning application and the appeal, it is considered that, subject to compliance with the conditions set out below, the proposed development would generally be in accordance with the requirements, as set out in the current Development Plan for the area, would be acceptable in terms of servicing and traffic safety and would not injure the existing visual and residential amenities of properties in the vicinity. Furthermore, it is considered that the proposed development would not impact upon the adjacent Architectural Conservation Area of Old Portmarnock (Drumnigh Wood) 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 further plans and particulars submitted the 28th 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) Proposed House Number 25 shall be omitted. The remaining house shall become a detached dwelling.

Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Permission is hereby granted for 29 houses in total.

Reason: In the interests of visual and residential amenity.

3. No development shall commence on the site until such time as the following details have been agreed and complied with:

- (a) Requirements of the planning authority's Transport Planning Section in relation to the roads and footpath, public lighting, open spaces and water services to be taken in charge;
- (b) Requirements of the planning authority's Parks and Green Infrastructure Department in relation to the protection of trees, proposed replacement trees, tree and landscape establishment schedule, replacement roadside hedge, planting requirements and maintenance programme;
- (c) Requirements of the planning authority's Water Services Planning Section.

Full details shall be agreed with the planning authority prior to commencement of development and all works shall be completed by the applicant, to the satisfaction of the planning authority prior to the occupation of any house within the proposed development.

Reason: In the interests of roads and traffic safety, protection of the natural environment, public health and the proper planning and sustainable development of the area.

4. No house shall be occupied until such time as:
 - (a) The front boundary of the site shall be set back, with railing, landscaping completed and footpaths installed;
 - (b) The works to the sewerage system, permitted under planning register reference number F16A/0607, have been fully implemented;
 - (c) A public lighting scheme has been submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of public safety, public health and the proper planning and sustainable development of the area.

5. The open spaces shall be developed for, and devoted to, public use. They shall be kept free of any development and shall not be incorporated into house plots. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with 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.

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

6. The construction of the development shall be managed in accordance with a Construction 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 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;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

- (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) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) 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;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) 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 interests of amenities, public health and safety.

7. 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, dark brown or dark grey in colour only.

Reason: In the interest of visual amenity.

8. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any proposed dwelling house without a prior grant of planning permission.

Reason: In the interest of residential amenity and in order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

9. Site development and building works shall be carried out only between the hours of 0800 and 1900 from 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.

10. 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.

11. 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.

12. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The bond shall include provision for the protection of trees during the course of development. The security to be lodged shall be as follows –
 - (a) an approved insurance company bond in an amount to be agreed with the planning authority prior to the commencement of any development on site,

- (b) a cash sum, amount to be agreed with the planning authority prior to the commencement of any development on site, to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or
- (c) such other security as may be accepted in writing by the planning authority.

Reason: To ensure the satisfactory completion of the development.

13. 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 include a sum to be paid in lieu of open space provision towards the cost of amenity works in the area based on a shortfall in the proposed development. 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.

Paul Hyde

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

Dated this day of 2019.