



Planning and Development Acts 2000 to 2018

Planning Authority: Fingal County Council

Planning Register Reference Number: FW18A/0100

Appeal by James Wharton of Ballicky, Bantry, County Cork against the decision made on the 10th day of December, 2018 by Fingal County Council to grant subject to conditions a permission to Flynn and O’Flaherty Construction care of OMS Architects of 63 Mount Street Lower, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The construction of one number five-six storey apartment building (Referred to as Block 1a), one number six storey apartment building (Referred to as Block 1b), one number five-six storey apartment building (Referred to as Block 1c) and one number four storey apartment building (Referred to as Block 1d) on Phoenix Park Avenue (immediately south of the permitted Public Park) with roof solar panels. The development will contain 88 number apartments in total, consisting of four number three-bed apartments, 72 number two-bed apartments and 12 number one-bed apartments, and at ground floor level there will be an ESB substation, switch room, refuse/plant rooms, ancillary accommodation, bicycle parking and dedicated storage rooms, along with vehicular access off Phoenix Park Avenue to 96 number under croft car parking spaces. An accessible landscaped garden deck will be located at first floor level and at ground level there will be landscaped open space, 15 number on street car spaces and all

associated site works, all at the Former Phoenix Park Racecourse, Castleknock, 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 provision of the Final County Development Plan, to the pattern of development in the area, to the close proximity to mainline rail and bus connections and to the density, layout and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of future residents and would represent a high quality residential environment generally in compliance with the objectives of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018, the Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Guidelines for Planning Authorities and the accompanying Urban

Design Manual issued by the Department of the Environment, Heritage and Local Government in May, 2009 and the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport in 2013. 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 on the 13th day of November, 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. Details of the materials colours and textures of all the external finishes to the proposed apartments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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.

4. A landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

5. The developer shall comply with the requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:
 - (a) The location(s) and layout of car parking and bicycle parking shall be in accordance with the detailed requirements of the planning authority for such works.
 - (b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works.
 - (c) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
 - (d) A minimum of two number on-street car parking spaces shall be reserved for car sharing, unless otherwise agreed in writing with the planning authority.
 - (e) A minimum of two number on-street car parking spaces shall have electric vehicle charging points and all on-street car parking spaces should have the infrastructure to enable future provision of electric vehicle charging points. Furthermore, all undercroft spaces shall have electric vehicle charging points provided.

- (f) Car parking spaces within the undercroft shall be sold, let or assigned in conjunction with the sale of apartment units within the approved development only and shall not be sold or let separately.
- (g) A Mobility Management Plan shall be submitted to the planning authority for written agreement, prior to the occupation of the development and shall be implemented within one year of the occupation of the first apartment. It shall be updated annually thereafter for a period of five years.

Reason: In the interest of traffic, cyclist and pedestrian safety, to promote sustainable transportation and to protect residential amenity.

- 6. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

- 7. A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

8. Prior to commencement of development, proposals for an apartment numbering scheme and associated signage shall be submitted to the planning authority for written agreement.

Reason: In the interest of orderly development.

9. 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 apartment.

Reason: In the interests of amenity and public safety.

10. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owners' Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

11. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

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, including traffic management, noise management measures and off-site disposal of construction/demolition waste.

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

13. 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.

14. During construction stage, all topsoil stripping associated with the proposed development shall be subject to archaeological monitoring by a suitably qualified archaeologist. Provision shall be made available for the resolution of any archaeological features or deposits that may be identified.

Reason: In order to secure the preservation and protection of any archaeological remains that may exist within the site.

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.

Paul Hyde

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.