



Planning and Development Acts 2000 to 2019

Planning Authority: Fingal County Council

Planning Register Reference Number: F19A/0557

Appeal by Kinsealy Lane Partnership care of John Spain Associates of 39 Fitzwilliam Place, Dublin against the decision made on the 17th day of January, 2020 by Fingal County Council to refuse permission for the proposed development:

Proposed Development: The proposed development will comprise (i) demolition of existing building (1,054.8 square metres), (ii) construction of 48 number two-storey dwellings (six number detached, 24 number semi-detached and 18 number terraced dwellings) with private amenity space and on-curtilage parking spaces, (iii) provision of vehicular access to serve the development and six number separate vehicular access points to serve six number detached dwellings facing Kinsealy Lane, and provision of secondary agricultural access west of proposed dwellings, (iv) provision of shared surfaces and landscaped public open space (0.1774 hectares), (v) provision of temporary foul sewage holding tank and lifting station; (vi) provision of SuDs surface water drainage and dry detention basin with underlying filter stone to serve surface water; and, (vii) all other associated site development works, including ESB substation, landscaping and boundary treatments, and

all ancillary infrastructural and engineering works necessary to facilitate the development, all at Lands At Kinsealy Lane, 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

In coming to its decision, the Board had regard to the following:-

- (a) the policies and objectives of the planning authority as set out in the Fingal County Development Plan 2017-2023 including the fact that the proposed alterations are on lands zoned residential,
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (c) the on Sustainable Residential Development in Urban Areas (Cities, Towns and 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,

- (d) 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,
- (e) the “Urban Development and Building Height Guidelines for Planning Authorities” issued by the Department of Housing, Local Government and Heritage,
- (f) the Design Manual for Urban Roads and Streets (DMURS),
- (g) the Planning System and Flood Risk Management (including associated Technical Appendices) issued by the Department of the Environment, Heritage and Local Government November, 2009,
- (h) the nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure,
- (i) the pattern of existing and permitted development in the area,
- (j) the planning history within the area,
- (k) the submissions and observations received, and
- (l) the Inspector’s report.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated

European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the information for the Screening for Appropriate Assessment submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is not, therefore, required.

Conclusions on Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this accessible suburban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design and quantum of development and would be acceptable in terms of pedestrian and traffic safety, and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was satisfied that, based on the proposed completion date of the Kinsealy Pumping Station Upgrade of Quarter Four 2021 and the fact that a contract is in place, the proposed development would not be premature and would be in accordance with development management guidelines and would not prejudice public health, and was satisfied that Interim measures can be provided until such time as the new pumping station is operational.

Furthermore, the Board was satisfied that the proposed access arrangements to adjoining lands would not compromise the proposed development.

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 received by An Bord Pleanála on the 17th day of July, 2020, 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 buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

3. No gates, security barrier or security hut shall be permitted at the main entrances, including the pedestrian entrance to this development.

Reason: In the interest of social inclusion.

4. The developer shall enter into water and wastewater connection agreements with Irish Water prior to commencement of development.

Reason: In the interests of clarity and public health.

5. 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 amenities of property in the vicinity and the visual amenities of the area.

6. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, kerbs and the underground car park, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety.

7. The areas of public open space shown on the lodged plans shall be reserved for such use and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation. The areas of public open space show on the lodged plans shall be maintained as public open space by the developer or management company until such time as the areas are 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.

8. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

9. Proposals for a development naming and unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

10. 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 installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

- 11 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained in the site. 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.

12. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

13. The construction of the development shall be managed in accordance with a Construction and Environmental 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 work, noise and dust management measures, disposal of construction/demolition waste and measures to ensure aircraft safety.

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

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

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 2020