



An
Bord
Pleanála

Board Order
ABP-307896-20

Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: F20A/0212

Appeal by Anthony Moore care of Downey Planning and Architecture of 1 Westland Square, Pearse Street, Dublin against the decision made on the 13th day of July, 2020 by Fingal County Council to refuse permission for the proposed development.

Proposed Development: Construction of one number detached, two-storey dormer, four bedroom dwelling, on-site wastewater treatment system, landscaping, boundary treatment and new vehicular entrance and driveway from adjoining public road along with all associated ancillary site development and engineering works necessary to facilitate the development at Belgee, Naul, 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

The proposed development is located in an area zoned 'HA' in the Fingal Development Plan 2017-2023 for which the objective includes to protect and enhance high amenity areas and protect these highly sensitive and scenic locations from inappropriate development; but where allowance is made, in Objective RF38, for the erection of one additional house on a farm for an applicant who is farming the land. Having regard to the documentation submitted with the application and appeal, the applicant has demonstrated his involvement in farming this land, such that the proposed development complies with the relevant 'Rural Generated Housing Need' requirements as set out in the Development Plan and would not materially contravene these provisions. 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, 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. Prior to the commencement of development, the developer shall enter into a water connection agreement with Irish Water.

Reason: In the interest of public health.

3. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

- (b) Supervision of construction of the on-site wastewater treatment system shall be carried out by a suitably qualified (FETAC/QQI), experienced and competent professional. Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling-house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

5. The vehicular entry-splay (i.e. the paved area lying between the edge of the road carriageway and the gate/piers of the site entrance or, if no gate is provided, to a point six metres from the edge of road carriageway) shall be constructed in a bound road material or other suitable material to a detail approved by the planning authority.

The site entrance gates shall be recessed a minimum of six metres from the edge of the road carriageway. Any entrance gates shall open inwards to the site. Wing-walls from the gate to the front boundary hedgerow shall be splayed at an angle of 45 degrees.

The gradient of the access driveway shall not exceed 2.5 per cent over the last six metres of approach to the public road.

The ditch is to be piped at the location of the proposed vehicular access, with pipes of adequate size and strength to the satisfaction of the planning authority.

The width of the proposed vehicular access shall not exceed 4m.

No objects, structures or landscaping exceeding a height of 0.9 metres which could obstruct (or could obstruct over time) the required sightlines shall be placed or installed in the vicinity of the proposed vehicular access.

All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location at the developer's expense.

Reason: In the interest of traffic safety.

6. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

7. 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.

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

Dated this day of 2020